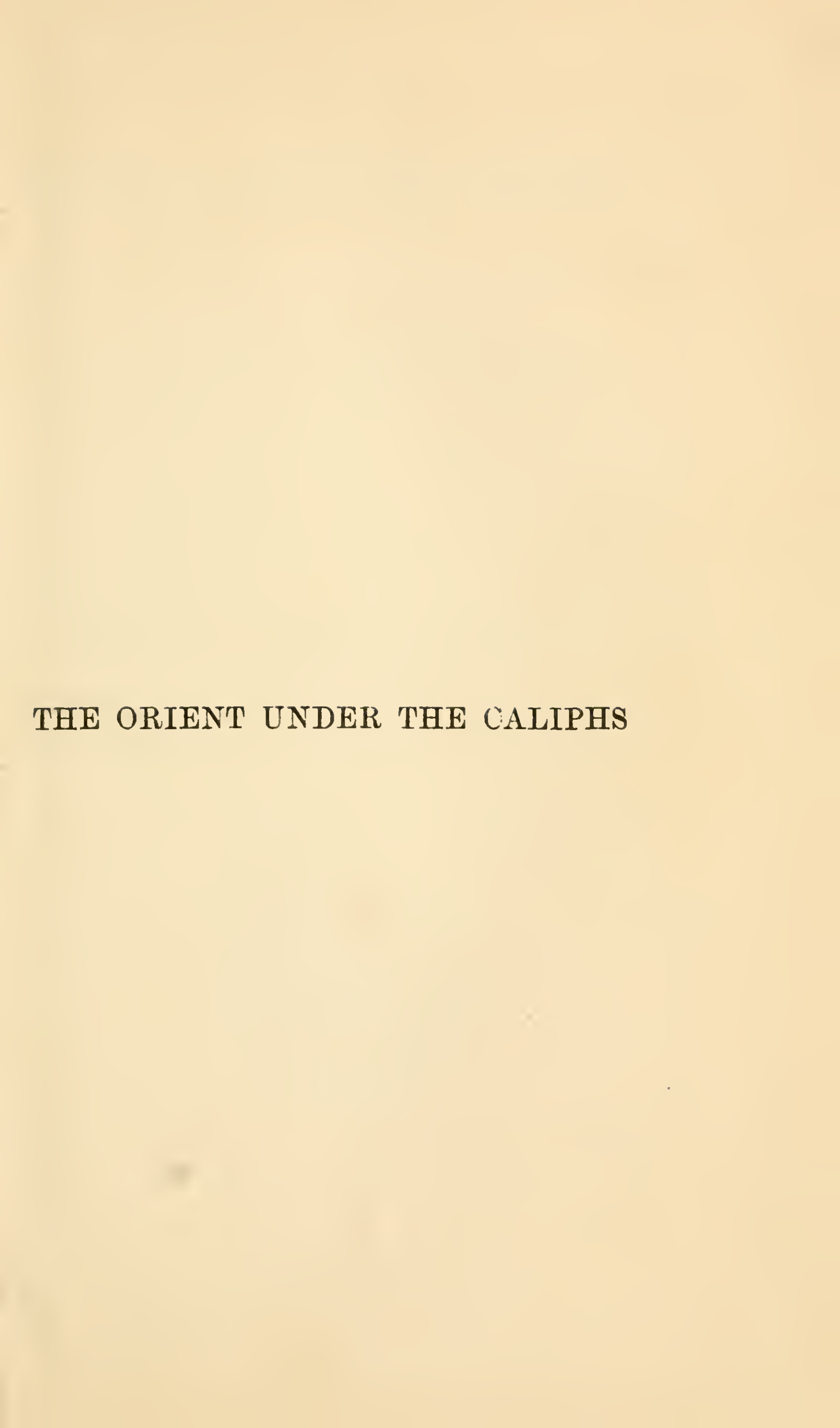






THE ORIENT UNDER THE CALIPHS

The Orient under the Caliphs

[Translated from
Von Kremer's Culturgeschichte des Orients]

By

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To

The Beloved Memory of my Father

who first suggested the translation

of this book to me.

FOREWORD

I am confident that this translation of Von Kremer's *Culturgeschichte des Orients* will be welcome to all English-knowing lovers of Islamic history and culture. Von Kremer still stands unsurpassed. He has had no competitors; he alone occupies the field. His researches—patient, laborious, thorough—have illumined every aspect of Muslim life. He is the most trustworthy interpreter of the social, political, economic, literary, and legal problems of Islam. The volume before us opens with an account of the death of the Prophet, and the trouble that arose over the question of succession. Faction fought faction. Heavy banks of cloud loomed up menacingly on the political horizon of Arabia. The spirit of tribal faction—theretofore checked and kept in restraint—asserted itself; and, in its very infancy, Islam was threatened with division, disunion, ruin and disruption. Omar saw the danger, and felt the need of prompt and vigorous action. He did as a practical and sagacious statesman would do. He settled the question of succession at a stroke; and with that the clouds rolled away, and the danger which had confronted Islam was at once averted. Abu Bakr and Omar, at the helm

of the State, augured well for the future of Islam. Vivid, graphic, telling, are the opening pages of this book; and indeed a high level of scholarship is throughout maintained, and a charming style sustained. It reads like a romance; for verily the history of Muslim Civilisation is a romance. What has been, what is! How thrilling, how doleful the tale! With the gradual dissolution of Muslim Empire, we can hardly hope that Islam politically will ever again be what it has been in the Past. But one comfort and consolation the Indian Muslims have; and it is that, sinking their differences, and by casting in their lot with the other integral elements of the country, they may help to make India, in the near or remote future, a "land of freedom and of just renown."

What Mohamedan can read of Turkey and its recent fate without a sigh or a tear? But even this woeful event, so distressing, so heart-rending, will not be without some effect, and we trust a good effect, on the destiny of India. It will knit together the Hindus and Mohamedans more closely, and we trust permanently —making them into one compact, homogeneous whole, merging them both in a higher unity than either of them by itself had constituted before.

For this end no price were too heavy, no sacrifice too great.

I have strayed from my main theme. To resume: Von Kremer sees in Islam and in Islamic civilisation something well-worth serious study. Islamic Religion stands out as a beacon-light amidst the encircling darkness of the Middle Ages, and Islamic civilisation as a landmark in the progress of humanity. In Muslim Law he sees a system, second only to Roman Law, in breadth of view, in refinement, in humanity and wisdom. This book deals not with the dry and wearisome details of military operations; nor does it concern itself with the hideous rogueries of Court intrigues—with murder, lust, rapine, and depredations; but lays bare before us all that was of enduring value in Islam or Islamic civilisation.

Delightful is the chapter on Town life. Here, we are suddenly ushered into the intimacies of Arab life. Here, we see that life in all its freedom and *abandon*, with its love of wine, women and song. Islam could not—what religion could?—destroy the joyous instincts of youth. After the cessation of wars, the old free unclouded life of joy again obtained its former ascendency.

In the pages of Goldziher we read of two distinct ideals—the ideal of Islam and that of the Heathen Arabs. Steadily and surely the older of these recovered its sway. Town life became a life of joy and gladness, a

life divorced from the asceticism and moroseness of pietists.

From Town life we pass on to the Court of Damascus—the delightful city of the Omayyads, the Emerald Garden, as the Arabs called it. This battle-field of nations, this old historic city, became the capital, the seat, of the Caliphate. It cast Medina into the shade—Medina, the cherished home of the Prophet.

Here lived the Omayyads, surrounded by all the luxuries that money could command, or art devise. Here the Pagan life of the Pre-Islamite Arabs was reproduced in all its ancient strength and weaknesses.

Love and song relieved the tedium of existence, and fierce tribal feuds effected a diversion in the otherwise equable life of the people.

Damascus became the haunt of pleasure; the centre of music; the home of gaiety. Life was a vortex of pleasure; religion a mere pretence.

Furthermore, we are introduced to the Arab system of administration. The entire machinery of government is placed before us. We see it in its complete working order. The writer's task is achieved with a knowledge, thoroughness and clarity of vision which cannot be too highly praised, or too highly admired. Military affairs are not forgotten, and in the chapter on army administration

we have the entire military organisation of the Muslims portrayed in its minutest details. We have a full, exhaustive account of it, from its rude beginnings to its highest development. The administrative systems of the Muslims, both civil and military, are the most powerful witnesses of their culture and civilisation. They unfold not only their great adaptive and absorbing capacity, but also their original and creative powers.

Nor are the political speculations and political theories of the Arabs omitted from consideration in these pages. The doctrine of sovereignty, the duties of subjects and the obligations of rulers, how far and to what extent obedience was justified, and when it became a sin and a treason to the body-politic, these topics —supposed to be unknown among the monarchy-ridden Orientals—are discussed with a freedom and independence which have not been excelled even by Hobbes or Locke or the revolutionary scribes of France and Germany.

This is a book which will never cease to interest lovers of Muslim civilisation. Two things are needed to ensure permanence to historical works: laborious, exhaustive research, and genuine sympathy with the subject.

Von Kremer possesses them both, and to the fullest extent.

But the book itself is now before the reader: he must judge for himself its worth and value.

Years ago my father expressed a desire that I should translate this work into English. I have always borne this wish of his in mind, and it is a matter of profound satisfaction to me that I am now able to carry it out. One thing alone casts a veil of melancholy over my mind in this connection. He is now no more to see and read my translation.

In conclusion, I have to express my deep gratitude to my friend, Mr. H. B. Hannah, for revising the proofs of this book.

Possessed of the true spirit of a scholar, which never shrinks from lending a hand to literary effort, Mr. Hannah has always cheerfully accepted my invitation to glance through the MSS. of my numerous publications. I here tender him my hearty thanks.

KHUDA BUKHSH LIBRARY,
BANKIPORE. S. K. B.
September, 1920.

ERRATA.

P. 10, line 14 from bottom, insert *it* between *too* and *seems*.
,, 10, line 10 from bottom, read *theretofore* for *therefore*.
,, 22, line 6 from top, insert inverted commas before *vagina*.
,, 31, line 4 from bottom, read "*sport*" instead of *freak*.
,, 33, line 4 from top, ditto.
,, 36, line 17 from top, ditto.
,, 35, read *Ouranos*, *Ourania*, and *Ouranian*, wherever they occur.
,, 37, line 15 from bottom, read *site* for *side*.
,, 37, line 13 from bottom, read *convenience'*.
,, 44, line 12 from bottom, read *afterwards*.
,, 45, line 15 from bottom, insert inverted commas before *Alpines*.
,, 50, line 8 from bottom, read *Poseidōnis*.
,, 54, line 11 from top, read *basin* for *basis*.
,, 78, line 17 from top, insert bracket after *Arām*.
,, 85, line 11 from bottom, read *Kāssitic* for *Kāssite*.
,, 86, line 18 from top, insert comma after *Sākhesani*.
,, 96, line 7 from bottom, insert comma after *then*.
,, 96, line 6 from bottom, read *of* for *af*.
,, 108, line 5 from top, read *12th* for *11th*.
,, 127, line 9 from top, insert comma after *Kar-dā*.

THE
ORIENT UNDER THE CALIPHS

I

THE RISE OF THE CALIPHATE
AND ITS CONVERSION INTO SOVEREIGNTY

On Monday the 8th of June in the year 632, between 2 and 3 in the afternoon, when the sun was declining, an unusual commotion was observed in front of the *Mosque* in Medina. In spite of the oppressive heat groups of persons were seen sitting in the shade of mud walls or under isolated palm trees. In between were found dark-brown half-naked Beduins with their camels; while women and children roamed about here and there. Everything appeared as though in expectation of something about to happen. The plaintive cries of women from the groups of huts hard-by the *Mosque* were sufficient to indicate the mournful character of the event expected, not to speak of the serious countenances and pious invocations of the men. This cluster of houses, if so it could be called, was, like the *Mosque* of Medina itself, of an exceedingly simple kind; *viz.*, of clay-bricks and unhewn stones, and

appears to have gradually been formed by building and joining one hut with another.*

The walls were scarcely higher than a man's height and the roofs consisted of palm twigs and brambles beaten with earth and lime to ward off the not infrequent winter storms. In front of the solitary gate leading out into the square there was a covered verandah; a platform of earth extending in front of the walls which were partly covered with mats made of rushes. On this simple *Divan* were some men seated together, who appeared to be anxious for the message they expected from the inner apartments. Thus glided away almost an hour when, from the flat roof of an improvised stand, made of palm stems and overlaid with clay, near the chief gate of the *Mosque*, a rich and powerful voice announced, in a melancholy tone, the call to the afternoon prayer. It was Belal, the *Muazzin* of the Prophet. All rose, and there at once stepped from the door-way a man of quite sixty, with a long and sharply defined profile, testifying to his noble Arab descent. Of fair complexion, he had a slender figure and angular features; his beard, to conceal the grey hair, was dyed bright-red according to the Arab custom, and the brow projecting under the turban indicated an

* Sprenger: Das Leben und die Lehre des Moh. III, p. 17. (*Cf.* Prof. Margoliouth's Mohamed, p. 7, Tr.)

unusual intelligence; but he gave the impression of having aged before his time.* His dress consisted of white sheep wool which, like a coloured *toga*, he carried over his shoulder, and which completely covered his body, leaving only his hands free. Underneath he wore a long coat of camel's hair reaching down to the knee. It was Abu Bakr,—the father-in-law of the Prophet, who addressed the usual salutation; "Peace be on you," which was answered back with the usual return formula: "On you be the peace of God and His blessings." Surrounded by all those who were present he slowly advanced towards the main gate of the *Mosque* where already had assembled a considerable crowd to perform the prescribed prayer which Abu Bakr, the representative of the Prophet, was about to conduct.† This was the event which had set the whole town astir; for the Prophet, in spite of an illness lasting for several days, had himself hitherto conducted the prayers, and had even that very morning appeared before the congregation. But alas! he could do so no longer. In the inner apartments of his house, consisting of several clay huts built around the courtyard, he lay seriously ill in the chamber of his wife Ayasha—scarcely eighteen—who with her slender figure,

* Usud-ul-Ghabah, III, p. 233; Ibn Qutaibah, p. 84; Sprenger I, p. 409.

† Sharh-ul-Muatta by Zurquani, I, p. 311.

black hair, fiery and piercing eyes, with wide trousers and a charming gauze shirt, passed, according to the Arab conception, for a beauty of the first order. In her lap she held the head of the Prophet,—who lay on a bed of palm-leaves,—fanning and endeavouring to soothe his feverish delirium. Here lay the man who in the space of a few years had called a new religion into being, had conquered Mekka and had made the whole of Arabia obedient to his behests. Helpless did he struggle against a consuming fever which his body, shattered by nervous excitement, frugal diet, night vigils and boundless enjoyment of the *Harem*, was scarcely able to resist. The shrill clamour of women and servants who were loitering in the courtyard might have often evoked in him unpleasant recollections of the outer world, but his thoughts quickly wandered away. His physical strength was steadily ebbing and he breathed slowly and with difficulty.

Ayasha was ready with her incantation formula which she considered effective and efficacious: "O God, who heareth men, remove this evil: for Thou art the healer and there is no healing power except Thine and Thy cure grants no respite to sickness." While reciting this formula she held his hand in her own; but she felt it becoming stiffer and stiffer. When shortly 'Ayasha let it go, his arm fell

motionless. The Prophet was dead! It would be difficult to realize the impression which this event created upon the populace of Medina. Omar, the Prophet's father-in-law, his friend and trusted counsellor, was present in the house when there was heard the lamentation for the dead, with which, according to the old Arabian custom, the women announced the death of their domestic chief; but he could not believe that the Prophet, like other men, was subject to death, and he threatened to kill any one who dared say Mohamed was no more. In the meantime Abu Bakr came out from the neighbouring *Mosque* and hastened to the chamber of his daughter Ayasha, where, as related by eye-witnesses, he bent over the lifeless body so low that his brow almost touched that of the Prophet. Then he rose and confirmed the news.* The majority of the Medinites thought the same as the fiery Omar. They could not imagine that the extraordinary man who had won such an unlimited sway over their mind and heart, and who had accomplished such wondrous results—appearing well-nigh impossible without the special aid of the Almighty—could at any time pass away from them.

To the pious among them, who had been accustomed to an unbroken communication

* Usud-ul-Ghabah, III, p. 221.

with God and heaven through the medium of the Prophet, it might even have appeared inconceivable to think or act for themselves without obtaining for every difficult or doubtful case a divine revelation for their guidance. They must have felt as though forsaken by God. Such, to be sure, was the feeling then in Medina, the seat and centre of the most zealous supporters of the new and predominant religion—Islam. The two tribes of *Aus* and *Khazraj* constituted the most important portion of the population of Medina. They were the old inhabitants of the town, and when Mohamed had fled from Mekka it was they who accorded to him a warm and friendly reception, made his cause their own, and fought and bled in all his wars and battles. With his death the tie which had hitherto united these tribes—in spite of their own jealousy and rivalry—was rent asunder and their old disputes threatened to burst out again in all their untamed fury. The majority of those Mekkans, on the other hand who had joined Mohamed in his flight from his native town, who had become his companions in flight (*Muhajirin*), whose number gradually increased, and who had similarly settled down in Medina, now felt their position absolutely unsafe among the old inhabitants—the *Aus* and the *Khazraj*. Mohamed had endeavoured to make the *Muhajirin* and *Ansar* brothers by hushing

their disputes into silence, settling their differences and establishing peace and concord among them. It was accordingly all the more ominous to this section of the population of Medina when the common link between the two was broken. If by the death of the Prophet these important sections of the population found themselves threatened in their dearest possession, in a far greater degree must this have been the case with that narrower circle which had formed the direct *personnel* of the Prophet, *viz.*, those belonging to his family or his household, or those who were more closely linked to him and to his cause by the ties of friendship and devotion. With alarm, indeed, did they anticipate the sudden shipwreck of their influence, their position, and the not inconsiderable advantages coupled with these. It was doubtless the instinct of self-preservation which forced the mass of the people—led by diverse motives—to make a common effort in filling up as soon as possible the gap created by the death of the Prophet. This, however, gave birth to serious party disputes. The *Muhajirin*, or the Mekkan emigrants, at once threw in their lot with the family of the Prophet, the most senior member of which was Abu Bakr, Mohamed's father-in-law. Even in the times of the old Arab heathenism old age commanded great respect. The oldest member of the best and

noblest family of the tribe was regarded as its leader, counsellor and judge. Thus flocked round Abu Bakr most of the members of the family of the Prophet, his supporters, and the Mekkan emigrants. The opposing party consisted of the old original inhabitants of Medina—the two tribes of the *Aus* and the *Khazraj*—whom Mohamed gave the honourable title of the *Ansar*. These had assembled in another place, the meeting hall * of the Banu Sa'ida where they gathered round their chief and leader—Sa'id Ibn Ubaidah—who sought to secure for himself the leadership of Medina. When Abu Bakr, accompanied by his supporters, repaired there, discussion passed into angry words which threatened to degenerate still further into violence. The *Aus* insisted upon the election of an *Amir* of their own and another for the Quraish and the *Muhajirin*, but the latter would not consent to any such division of rulership. The bold and fiery Omar, at last, decided the fate of the day by seizing and striking his hand on that of Abu Bakr, which continued to the latest times as the sign and token of election and homage to the Caliph-elect. This example had a decisive effect. It carried away the majority of those who were present. They followed his example and

* [See Cambridge Medieval History, Vol. II, pp. 332-333. Tr.]

elected Abu Bakr as the representative of the Prophet.*

The general election by the entire community was effected the following day.† But a considerable number of influential men like Ali, the son-in-law of Mohamed and the Hashimides, the leaders of the *Ansar*, refrained from taking part in the election.‡ Ali, as the son-in-law of the Prophet, considered himself more entitled than Abu Bakr to enter upon his heritage and his wife, Fatima, encouraged him in that belief.§ Thus was the first election concluded, and with it was created for the subsequent history of the Caliphate an exceedingly important precedent, inasmuch as it led later on to the establishment of the principle of the constitutional law, *viz.*, the principle of free election by the assembled community and its confirmation by general homage.

At that time, indeed, they never thought of theories or constitutional principles, nor was it expressly intended to create a fixed standard to be followed for all times. They simply followed

* On the election of Abu Bakr cf. Bukhari, 3613. On the jealousy of the *Ansar* against the Quraish, Bukhari, 1957, 2214 (7).

† Ibn Ishaq, Wüstenfeld's Tr. II, p. 352.

‡ Usud-ul-Ghabah, III, p. 222. By the Hashimides is to be understood the nearest relatives of the Prophet. Hashim was Mohamed's great-grandfather.

§ Bukhari, Kitabul Maghazi, Ghuzwat Khaibar.

customs and traditions inherited from antiquity. Even before the time of Mohamed the Arab tribes proceeded upon similar lines in electing their chiefs and leaders. But as there was nothing definite and fixed, later on, out of the conflict of ideas between free election by the people, hereditary succession and the principle of seniority (according to which the oldest member of the family was looked upon as the successor to the throne) arose an endless series of succession disputes. Abu Bakr, the successor and representative of the Prophet in the highest affairs of the Muslim community, was a simple man of the old Arabian fashion; and when summoned to the Caliphate, he was changed in no respect. Outside the town in a small village, called *Sunh*, he lived with his wife Habiba under a tent of camel hide, in a style as simple and unostentatious as that of a Beduin *Shaikh*. Thus did he live for seven months after his election. In the morning he used to start for the town, either on foot or on horseback, reaching it just before sunrise to conduct the morning prayer. In a similar manner he returned home in the evening.* He subsequently came to settle in town, but his household always remained as unpretentious as ever. He had only one slave who, after finishing the domestic work, made himself useful by cleaning the swords of the

* Usud-ul-Ghabah, III, p. 209.

faithful. In the earliest time the Caliph did not receive an annuity, as the State had no income. Scarcely had the news of Mohamed's death spread when a general ferment arose. Most of the Arab tribes fell away. The outlying provinces shook off the yoke, and in Mekka itself the old heathen party raised its drooping head. In this acutely dangerous situation the shrewd policy of Mohamed, after taking Mekka, of overwhelming with presents his influential tribesmen (among whom were the most distinguished men of the Quraish, who had only accepted Islam to save their lives), was fully recognised and appreciated. The Arabs were a money-loving people and by enriching the influential Mekkans he made clear to them, in a most effective manner, the advantages they would possess by having a cousin as a Prophet. To this cause we must attribute the failure of the Anti-Islamic movement. The old Abu Quhafa, the father of the Caliph, possessing considerable influence in Mekka, might have helped in no small degree in obtaining the full recognition of authority for his son and in bringing home to his Mekkan compatriots the advantages that would accrue from it.*

This explains the failure of the movement against Abu Bakr and the early recognition of

* Usud-ul-Ghabah, III, p. 222.

the authority of the Caliph in Mekka. The Beduin tribes of the outlying district of Mekka and Medina, in consequence of the barren country, were poor and needy. They accordingly were largely dependent on the two holy cities. The great stable and agricultural tribes of Central Arabia and the tribes inhabiting the eastern and southern districts of the Arabian Peninsula were the only rich and powerful people. They also availed themselves of the opportunity of getting rid of the burdensome poor-tax (*'ushr*) imposed upon them by the Prophet. In Yemen, Hadramaut, Mahra and Oman, partly even in Bahrain, the people followed their example and expelled Mohamed's tax-gatherers and missionaries. But the resistance of the tribes—who were disunited and worked without a definite plan—could not but be ineffectual against the firm and unshaken resolution of Abu Bakr. In the unquestioned and unbending discipline and in the unconditional obedience which Mohamed received from his followers lay the greatest achievement of the Prophet and the secret of the strength of Islam. In the five daily prayers where the leader (the Imam) stands in front of the congregation who are ranged behind him in compact array, and where every movement of the leader is imitated with military precision we have what is now known as the drill-ground, a school where the people assembled,

moved *en masse* and learnt to obey their commander.*

Abu Bakr was just the man to take the fullest advantage of this. He had always been a religious enthusiast ready to sacrifice anything for his religious conviction. With his advancing age this native tenacity of character appears to have been transformed into an uncompromising and unshakable stubbornness. However unfavourable the position, however dangerous the situation, he held firmly by what he considered right. But in politics firmness in error is better than weakness and hesitation in right. On his accession he at once gave proof of his resolute persistency. Shortly before his death Mohamed had arranged for an expedition into the Byzantine territory and had collected and equipped a division of the troops which was to proceed to the North, and Usama, the son of his freedman and adopted son Zaid, was appointed its commander. When the Prophet died, many, among whom was even Omar, counselled Abu Bakr to disband the troops, as men might be needed to fight the enemy at home. But Abu Bakr refused to cancel an order made by the Prophet. Thus the expedition proceeded, 3,000 strong, of whom 1,000 were horsemen.† It was nothing more than a predatory raid, and as such

* Von Kremer, Geschichte der herrsch. Ideen, pp. 321; 457.

† Wakidi in Ibn Asakir, F. 47.

it was a complete success. It struck terror into the hearts of the roaming Beduin tribes of the North of Medina and returned with a rich booty of live stock. It further strengthened the courage of the people of Medina and depressed that of the insurgent tribes. No less firm and undaunted was the attitude of the Caliph against the Central Arabian tribes. They sent messages to him of loyalty and obedience to Islam, on condition that they should be exempted from the poor-tax. In spite of the very dangerous situation and the timid counsel of accepting their proposal given by many of the most influential men, the Caliph gave the following alternative: unconditional surrender or war unto destruction.* The result justified the resolution of the Caliph and one of the leading men of the time, Abdullah Ibn Mas'ud, has thus expressed himself: "After the death of the Prophet we would have been well-nigh ruined had not God strengthened us with Abu Bakr." The people would have willingly concluded a cowardly peace, but Abu Bakr remained firm and unshaken.†

His public appearance was patriarchal, his private life simple and even his political measures bore the impress of his guileless character. The State-revenue consisted for the most part of the legal fifth of the war-booty, the poor-tax (*Zakat*

* Beladhuri, p. 94.

† Bukhari, Tradition of Abu Huraira.

or *Sadakah*) payable by well-to-do Muslims, and the tithe payable for lands or more correctly from the produce of the lands. In the time of Mohamed and Abu Bakr even cattle-breeding was subject to taxation. In the earliest times these taxes were presumably paid *in natura;* for example, in camels, horses, goats, dates and other fruits. A peculiar system of the division of the entire revenue, which came into existence under Abu Bakr and was further developed by Omar, existed in connection with this extremely simple system of taxation. It was the division of the whole revenue among the members of the Muslim community after the deduction of the expenses for expeditions or campaigns or equipment of the troops. It seems to be only a further development of the socialistic tendencies implanted by Mohamed. In the beginning, the division (which soon assumed the character of a fixed annuity) was made among the inhabitants of the two sacred cities and their allied tribes, but later on this was considerably extended and notably by Omar I, who made it a part of the constitutional law, though it scarcely then attained its full stature and development.* In the beginning of Abu Bakr's government, the amount of the annuity was very small, for insurrection in Arabia, due mainly to the refusal to pay the poor-tax, had diminished the State-

* (Müller, Islam-im Morgen und Abendland, I, p. 279. Tr.)

revenue. In the first year men received 10, in the second 20, *Dirhams* per head; even women and children received the same amount.* His own expenses the Caliph met out of the income of a small property which he owned, and when that was not enough he borrowed 6,000 *Dirhams* from the treasury, the refund of which he specially recommended on his death-bed to his family. The treasury was kept at *Sunh*, in the upper portion of Medina, where Abu Bakr resided in the beginning of his Caliphate. But when he removed to the town he brought the treasury along with him to his new quarters. After the subjugation of the insurgent tribes, considerable amounts came in, and Abu Bakr used to divide the money among groups of hundred men. He, moreover, purchased out of it camels, horses, military equipments and pieces of cloth for distribution among the poor. On his death the treasury was found empty. The weigher of gold, whose services he employed, stated that 200,000 *Dirhams* came in during his reign.† Only for a short time—a little over two years—was the much tried veteran able to withstand the cares and anxieties of his new position. The election of his successor was effected in a much quieter way; for the dying Caliph had himself marked Omar out as his successor, and had secured the consent of the most prominent

* Sprenger, Das Leben und die Lehre des Moh, I, p. 409.
† Ibn Sa'd : I, p. 410.

and influential *Ansar* and *Muhajirin*. Thus was the general election effected without demur or hesitation.* Thus was the polity saved from fresh assaults and thus the transfer of the supreme power was accomplished without a pause or delay. Here also it was the principle of seniority which decided the question, since Omar, after Abu Bakr, was the oldest of the family of the Prophet and like the first Caliph, was his father-in-law. Even the second Caliph remained true to the patriarchal customs of the ancient Arabs. This is what an eye-witness relates: "On an intensely warm summer day I was sitting with Othman in Medina. At some distance we saw a man driving two camel-foals. The heat was terrific. We wondered who could venture out in such a burning sun. When the man, however, came nearer, to our surprise, we found it was Omar. Then stood up Othman and put out his head from the shady place, but he quickly drew it in again as the hot wind was oppressive to a degree. When Omar came in, Othman enquired the reason of his venturing out in that frightful heat. Omar answered: 'The two camel-foals were sent in, in payment of taxes, and he wanted to drive them himself to the State pasturage so that they might not go astray.'† For the Pilgrimage from Medina and back he allowed

* Usud-ul-Ghabah. Sub Omar, IV, p. 69.

† Usud-ul-Ghabah, 71, Vol. IV.

himself only 80 *Dirhams* and yet he reproached himself for having taken too much from the treasury.* He never made use of a tent, but a mantle used to be thrown over a tree for the Caliph to rest under. Later on we shall acquaint ourselves more fully with the political and organising activities of this remarkable man. He was the real founder of all those institutions which made the Caliphate for centuries the ruling power of the world. It is necessary now to discuss however, the transfer of sovereignty to his successor, if we are to form a correct estimate of the political conceptions of those times, the transmission of sovereignty, and the influence that the populace exerted upon it. From what has preceded it is quite clear how utterly different were the Arabs from other Asiatic nations, how energetically they strove to assert, even in the earliest times, the right of the people to choose and elect their ruler or tribal chief, and how completely foreign to them was the idea of a hereditary kingship. They chose their Caliph just as they formerly elected their tribal chief, and never hesitated for a moment to strip him of his power and dignity if there were sufficient grounds for it. While praying in

* A *Dirham* is about the value of a franc. In the beginning 10, later on 12, and later still 15, *Dirhams* were equal to a gold piece, *Dinar*, the value of which was a little over 13 francs. The value of the *Dirham* varied.

the *Mosque* Omar was mortally wounded by a Persian slave who wanted to take revenge upon the oppressor of his nation. But the Caliph did not die on the spot. In the full possession of his senses, he made his final arrangements. He appointed a council of regency consisting of the most influential companions of the Prophet, *viz.*, Ali, Othman, Zubair, Talha, Sa'd and Abdur-Rahaman Ibn Auf; and with these he associated his son Abdur Rahman. He expressly enjoined that Abdur-Rahman was only to take part in the deliberations, and that he was specially to give his casting vote in case of an equal division, but on no account was he to set himself up as a candidate for the vacated dignity of the Caliph.

From this it clearly appears that the idea of founding a hereditary monarchy at that time did not exist, as Omar expressly excluded his son from succession. The main duty of this council of regency consisted in choosing a new Caliph. While appointing the Council, Omar stated the principles which henceforward were to guide the holder of the supreme power of the State. "To my successor," he said, "I commend the refugees (Mahajir). I charge him to guard their honor and to treat them with consideration. Then I commit to his charge the *Ansar* who chose Medina and accepted Islam. Let him acknowledge their merits and be indulgent to their faults. To him I specially recommend the inhabitants of

the military outposts, for they are the chief pillars and tax-gatherers of Islam and the scourge of enemies. No other taxes are to be levied upon them, except those which they can easily and willingly pay. Then I recommend to him the Beduins, for they are the root of the Arabs and the kernel of Islam. The poor-tax is to be justly levied upon their herds and is to be distributed among the poor. I recommend to him, for God and his Prophet's sake, to faithfully observe arrangements concluded with infidels and to wage war against those not yet reduced to subjection, but not to crush them."* The old Arab idea of the necessity of a tribal chief triumphed over the ambition of the members of the regency, and after a series of party discussions and disputes the choice fell upon Othman—the son-in-law of Mohamed. The idea of seniority had no doubt contributed much towards securing the submission of the ambitious Ali, who might plausibly have urged his claims to the Caliphate as the nearest relative of the prophet.

Thus he withdrew in favour of Othman, who was considerably older than himself. But now, with the accession of Othman, a new party rose to power, which hitherto had exerted no influence whatever on the State politic. This was the kinsmen of the old Mekkan Patrician families who

* Bukhari (Zydan, Umayydas and Abbasids, p. 29, Prof. Margoliouth's translation. Ibn Athir III, p. 25. Tr.)

only at the last moment had done homage to the Prophet and had accepted Islam. The old companions of Mohamed and the people of Medina felt not merely aggrieved but insulted at the complete loss of their power and prestige. Othman, besides, committed other impolitic acts, and thus was intensified the feeling of bitterness which finally led to a conspiracy of the *Ansar*, resulting in the murder of the aged Caliph. Ali was now chosen and thus attained the goal of his ambition. The influential *Ansar*, and notably the members of the council of regency appointed by Omar, of which several members were striving for the Caliphate, found themselves deceived by the election of Ali, and the jealousy of the Mekkan aristocracy against the hegemony of the *Ansar* and *Muhajirin* (or, in other words the rivalry of Mekka, the centre of the old heathen ideas, towards the Puritan Medina raised by Mohamed to the position of the capital of the Caliphate, being formerly merely an insignificant town) called forth shortly after the election of Ali insurrections which led to a bloody civil war lasting for several years. Directly after the murder of Othman, Ali was called by a great majority to the Caliphate. In the beginning he is said to have hesitated and objected to their proposal, on the ground that the right of electing the Caliph belonged above all to the old Muslims who

had fought at the battle of Badr, and that he alone was to be regarded as the rightfully elected Caliph for whom they decided, but all pressed him to stretch out his hand and receive from them the sign and token of election and homage. The competitors, specially Talha and Zubair, could make no opposition against the united pressure of the populace, and when Ali repaired to the *Mosque* where the new Caliph was wont to deliver his inaugural address, Talha and Zubair as well as other *Ansar* paid him their homage.* But Talha and Zubair† hastened to leave Medina as soon as possible, and met the other malcontents in Mekka (among whom is to be mentioned Ayasha—most hostile to Ali), and fomented against the new Caliph, whom they accused of complicity in the murder of Otrman, a movement which became exceedingly dangerous by the support of Muawiya, the Governor of Syria who, under the pretext of avenging the murder of Othman, renounced allegiance to the Government of Medina and declared Ali's election invalid. In the bloody wars that now followed, Muawiya remained victorious, for Ali fell by the hand of an assassin, and his son Hasan, whom his supporters elected Caliph, was weak and timid for the throne and resigned his claim in favour of Muawiya. Thus the Caliphate passed again into

* Tradition of Zuhri, Usud-ul-Ghabah, IV, pp. 31 and 32.

† [Khuda Bukhsh, Islamic Peoples, p. 75, Tr.]

one hand, but its seat and capital was no longer Medina but Damascus. With this ends the proper patriarchal Caliphate, and begins the second epoch in which the Mekkan aristocracy seized for themselves the supreme power and ruled the vast Empire in the same spirit as that of an old Arab chief of a powerful tribe. With the fall of the Omayyads and the transfer of the supreme authority of the State from Damascus to Baghdad concludes the pure Arab epoch of the Caliphate, and in its place appears the last phase of the growing foreign, notably Persian, influences which terminate with the overthrow of the Caliphate by the Moguls.

We think we ought here to say something in justification of the exhaustive treatment of the rise and transfer of sovereignty among the Arabs. No institution has exercised a greater influence than sovereignty (the political and executive power embodied in the person of the supreme ruler of the State) upon the development of the mind and the growth of culture. It will have clearly appeared by now how closely and inextricably bound up, among the Arabs, as among the Easterns generally, was the idea of sovereignty with the highest religious office; *viz.*, that of the high-priest. The prevalent view, common even in antiquity, was that kingship bore not merely a temporal but also an essentially spiritual

character. Among the Romans and the Greeks the king had to perform priestly functions. And even there, where a powerfully developed priesthood jealously guarded its rights and privileges, the king received a higher sanction by the special acknowledgment on the part of the priest as in India, or by priestly consecration or anointment with the holy oil as in Israel and Egypt. The position of the Caliph, in the beginning, at all events, bears a much more spiritual than temporal character. The Representative of the Messenger of God was the title which the first Caliph adopted. Politics and religion, according to the genuine Semitic conception, were identical and synonymous terms. They could not conceive of a prince devoid of the highest priestly power. For this reason, indeed, did they call the first successors of Mohamed 'Caliphs' and only later did the title 'Prince of the Faithful,' equally religious in its significance, come into fashion. In any case, it is remarkable that to express 'the sovereign or the head of the State' the Arab used the very same word which was originally used to signify the leader of prayers in the *Mosque; viz.*, the *Imam*. Out of religious ideas grew sovereignty and kingship, which were quite foreign to the north Arabian tribes, and the Arab state appeared as a revised version of the old Hebrew theocracy. It is scarcely conceivable how else among a people, so

exceedingly restless and disinclined to every form of personal sovereignty; personal sovereignty and monarchical principle could have arisen and developed. Moreover, there was the necessity of uniting the loose fragments of the north Arabian tribes into a corporate, closely united, compact and severely disciplined whole—presenting a firm and bold front to the outer world. Monarchy was, further, a result of the necessity of self-preservation for the newly arisen State-system of Islam in its continued warfares against the neighbouring nations. It is very singular that those Arab thinkers who dealt philosophically with the rise of kingship pointed to it as a necessary institution for the maintenance of social order. According to their view kingship was an indispensable condition precedent to civilisation.* They did not, indeed, hesitate to declare that even an unjust and oppressive monarchy is better than an unlicensed freedom; for, "an unjust kingship," says Tartushi, "is better than an hour of anarchy."† The Arabs, however committed one supreme mistake which undid all the advantages of their highly developed monarchical conception. Though maintaining an ill-regulated system of universal suffrage, they could not harmonize it with monarchy.

* (Khuda Bukhsh, The Islamic Conception of Sovereignty, in the first number of the Journal of the Indian Research Society, 1907. Tr.)

† Serajul Muluk, M. S. Fol. 50.

II

TOWN LIFE.

The more primitive the political conditions of those times appear the more necessary it is to point out that it would be a serious error to judge by that standard the civilisation of the two leading North Arabian towns. From a remote antiquity Mekka had been the proud possessor of a sanctuary held in deep veneration by the North Arabian tribes who were wont to meet there year by year at the pilgrim season. By the time-honoured privileges connected with the service at the Temple and the ceremonies at the pilgrimage certain families had acquired both rank and wealth. Gradually a patrician form of government came into vogue, with a compact and closely-knit community, which naturally secured for this town a preponderating political influence over the neighbouring tribes. From South Arabia across Mekka and Medina lay an important commercial route to Syria and Egypt. And commerce indeed holds out a rich and alluring prospect if there is diligence and enterprise behind. Its profit is soon a hundredfold. And this the active and money-grabbing population of Mekka knew only too well. The union of a

large mass of humanity in a settled habitation (however simple the constitution of the community) invariably offered in those times the priceless gifts of security of person and property. The heads of the leading families settled in Mekka were responsible for the maintenance of peace and order.

It is reported that on account of the ill-treatment of a South-Arabian who had come to Mekka, the elders of the town entered into a solemn engagement to offer help and protection against every act of injustice and oppression. From the time this league was formed the stranger enjoyed at Mekka and its neighbourhood perfect security of person and property. It is not difficult to imagine the importance of this measure at a time and in a country where no other than the right of might prevailed and where the plunder of a caravan was regarded as an honourable means of livelihood.

Long before Mohamed a council house, adjoining the Temple, served as a meeting place for the Elders of the town. Here foreign guests, emissaries and allies were received and entertained at the public expense. From here started the commercial caravans, and here also did they halt on the return journey to their country. Here, in this town-hall, marriages were concluded and the most important affairs of public and civic life determined. Here they met and discussed

the affairs of the town—a veritable popular assembly in the style of the antique city-state, to which were admitted, without restraint, all members of the patrician families of a certain age.*

Thus, at that time, Mekka appeared to be the type of a small commercial republic presided over by the chiefs of a number of noble families who owed their rank and wealth to their commercial enterprises, but more so still to the practical advantages derived from their services at the Temple and at the pilgrimage. Various were the posts of honour, and these were divided among the most important families. Of these the first and foremost was the post of the Custodian of the Temple. To his charge was committed the supervision of the Temple, and to him fell the duty of drawing the arrows when, according to the old Arabian custom, lot was cast. To this was joined the office of the Master of the Bags whose duty it was to attend to the want of the pilgrims.

For the supply of water to the pilgrims there was yet another post of honour. With this was coupled privileges of a ritualistic character; for instance, the right of lending clothes to the pilgrims who, according to the old Arabian custom, during the circuit round the Ka'ba, had

* Caussin de Perceval: Essai sur I'histoire des Arabes, Vol. I, p. 237.

to strip themselves naked. This privilege belonged exclusively to the Quraish. There were other duties besides, connected with this post: namely, the conduct of the pilgrim-procession from Arafat to Mina, etc.*

Mekka, as the midway station between Syria and Arabia, must have carried on a brisk and lively trade, and we would certainly be justified in holding that in the exchange of goods it made a very substantial profit and thereby enjoyed a very considerable prosperity. In this trade the entire population took part, either by way of supplying capital or furnishing goods and wares.

From Syria were imported silk and wool fabrics of Tyre and Damascus fame. This ancient native industry still flourishes in particular parts of Syria, and the fine, bright-coloured wool stuffs and the heavy damasks are still prepared, upon the very same antique patterns, as at the time when the Phœnicians of Sidon and Tyre provided the whole of the ancient world with these articles of luxury. In Arabia, notably in the rich Yaman, such articles found a good market.

From Arabia to the northern countries were exported raisins, dates, even precious metals and the valuable products of Yaman, such as incense,

* Cf. Culturgeschichtliche Streifzüge, p. viii. [English translation, p. 50, in Khuda Bukhsh's Islamic Civilisation. Tr].

myrrh, spices, as also aloes, sandalwood, and cinnamon, which were then highly prized throughout the ancient world. Probably many Indian and African products came to South Arabian harbours for further transit. Leather, being specially well-tanned in Yaman, formed then one of the principal articles of export. To form an idea of the money value which a large caravan represented, and several such caravans passed every year between Mekka and the North, it will suffice to say that one of such caravans which started from Gaza in Syria in February 624 A. D., was worth 50,000 *Mithkal*, *i.e.*, half a million francs.*

The profit from such primitive overland commerce was generally 50 to 100 per cent. Even in our own times, in the trade between Cairo and Khartum the profit, on the goods sold there, is usually 100 per cent. If we assess the nett profit of the Mekkans at 50 per cent.—this one caravan must have meant a nett profit of 25,000 *Mithkal*, *i.e.*, 250,000 francs.

Thus did Mekka become rich and prosperous, and when Mohamed at the battle of Badr took several of the most influential Mekkans captive, their compatriots did not hesitate to redeem them each for 4,000 Dirhams (4,000 francs): a

* Sprenger: D. Leben u. d. L. d. Moh. III, p. 96. Waqidi, 198. A *Mithkal* was worth about 10 Dirhams.

figure representing about double the amount according to our present valuation.*

When Mohamed, towards the end of his career, entered victorious into his native town, which had fought against him so long and so strenuously, he acted with a clemency which, while surprising his opponents, annoyed his friends. But he was anxious to make his tribesmen his own again, and that as soon as possible, and the means to attain that purpose were such as with Arabs or with most other men work swiftly and surely. He made them first feel his power, he then won them over by mercy and generosity. This policy rarely fails in its effect, and to this may be attributed the easy and rapid acceptance of Islam by the Mekkans, for he gave them more than they had. So long as they stood in opposition to the Prophet the earlier commercial intercourse had not only become difficult but had practically come to a standstill. Now once again they hoped to restore things to their proper order. The religious privileges of Mekka remained unimpaired; indeed, Islam still more enhanced the lustre of the town; and finally, what was of utmost importance, lavish monetary presents were made to the Mekkans both by Mohamed and his successors.

* Waqidi, pp. 138, 198.

Although they cared little for Islam still they had every reason to be satisfied with the newly-created state of affairs. With the victorious campaigns and the extensive conquests of the Arab army immense wealth poured into the two holy cities; infinitely more than the profit derived earlier through trade. And with the Caliph Othman the aristocratic party of Mekka succeeded in gaining the upper hand even in Medina, which had hitherto been the seat of extreme religious puritanism. Into their hands passed the entire government and the important governorships and all offices which yielded a large income. Thus within an incredibly short time the Mekkan patricians, to the utter vexation of the religious party, managed enormously to enrich themselves. Thus grew up a life of pleasure and luxury regardless and heedless of Islam and its moral precepts. Even in Arab antiquity female singers were not unknown at banquets and on festive occasions, and for this purpose did the rich merchants of Mekka purchase and train female slaves. The two musical female slaves of a rich Mekkan on account of their fine voices received the appellation of the two *Cicadas* and acquired proverbial celebrity. Persons in affluent circumstances kept female slaves trained in music and song, and these indeed were obtained for large, even fabulous sums from the neighbouring

Byzantine and Persian provinces, especially from Hira. At banquets and festive boards the guests, attired in bright, red, yellow or green garments, sat on couches strewn with myrtles, jasmines and other sweet-scented flowers. In gold and silver vessels musk, amber and aloes were burnt; wine-cups made of precious metals, or tumblers of finely-cut glass, were passed round, while the female singers delivered their daintiest melody.* It is clear beyond doubt that these female singers originally sang in their own tongue—Greek or Persian and not Arabic. Not until the middle of the first century of the Hijra did a genuine school of Arab music come into existence in Mekka and somewhat later in Medina. Tuwais is mentioned as the first who sang in Arabic with the accompaniment of the hand-drum.† We should not however understand by this that every rhythmic delivery of poems was unknown before the time of Tuwais. That which came, for the first time, from the Persians to the Arabs was harmony between voice and musical instruments. The simple vocal song on the other hand, a kind of monotonous recitation, goes back among the Semites to the remotest antiquity, and was indissolubly bound up with their poetry, inasmuch as what we term a declamation of poem consists

* Caussin de Perceval, II, p. 256. Cf. Hamasa, p. 562: Antarra, Moall., V. 83.

† Aghani, Vol. II, pp. 170, 173.

among the Arabs of a singsong recitation with a certain conventional modulation of the voice. This form of song, for we must call it so (the Arabs call *Inshad, i.e.*, declamation), was popular among them from the earliest times and has been up to this day maintained in the traditional recitation of the Qur'an. Thus sang the solitary wanderer in the desert, the camel driver, to spur on his weary animal to a quicker pace. Thus sang the warriors on the battle-field. And this mode of rhythmic declamation we can even now study in all Arabian countries where the poems of Antar and similar works are usually recited.* With the growth of luxury and social enjoyment grew the art of poetry. The old simplicity and austerity gave way more and more to a luxurious mode of living, to which in spite of the Qur'an and the puritanical sermons of the fanatics, the rich aristocrats so fondly abandoned themselves in Mekka and Medina. In the relation of the sexes the severity which Islam intended to enforce and later on actually did enforce was lost. The fashionable youths of Mekka boldly carried on their amours in the holy city, nay in the very temple itself. Chivalrous gallantry and worship of women, reminding us of the free love and splendid chivalry of the period of the

* Arab songs were unknown at the time of Omar I. The Arabs only knew then the song of the camel-drivers which was a simple recitation.—Aghani, VIII, p. 149.

troubadours, show themselves, which the later Islam transformed by the fanatical priests, the *ulemas*, and the hypocrites of the mystic schools regarded with horror and indignation. Harith-ibn-Khalid, famous as a poet, was appointed governor of Mekka by the Caliph Abdul Malik. He was in love with the daughter of Talha, Ayesha, one of the noblest and most influential women of the time. During the pilgrimage she came to Mekka to perform the religious duty. On the day of the great ceremony in the temple she sent a message to the governor to postpone the public prayer in the mosque until she had finished the prescribed circuit round the Ka'ba. The amorous governor, who had to conduct the entire pilgrimage ceremonies, unhesitatingly obeyed. This caused so great an indignation among the pious Muslims and the pilgrims assembled there that the Caliph found himself constrained to remove the gallant statesman from office. On receiving this information Al-Harith said, "By God! I do not make light of the anger of the Caliph, but if Ayesha had not been ready till nightfall I would verily have put the public prayer off till then if she had so desired."* In the personality of a young and prosperous Mekkan of a distinguished family who acquired fame not merely as a pleasure-hunter but also as a poet of considerable parts, we have a remark-

* Aghani, III, 103.

able type of character illustrative of those times. It was Omar Ibn Rabiyyah, the exemplar of his country and the idol of female worship.* Wealthy beyond the dreams of avarice and connected with the ruling family of the Omayyads, Omar was highly engaging in manners, charming in appearance, witty and facetious. His father was a man of great distinction in Mekka. Every second year during the period of heathenism he used to provide the Ka'ba with a brocade cover; while all the rest of the Quraish together bore the expense of the cover for following year. His wealth was acquired in commerce with South Arabia. He finally accepted Islam and was appointed governor of the province of Janad in Yaman. In the most affluent circumstances did Omar grow up. For him there was no necessity to acquire but to enjoy wealth—and that he did to the fullest extent. A passionate lover of the other sex he dedicated his poetical talents to them. He preached and proclaimed the gospel of love—a gospel so dreadfully distasteful to the older class of the Mekkans that they placed his poetical works under an official ban. They were condemned and they were proscribed. To the last he remained the same, for though weighed down with age he was wont to say "When young oft was I loved without loving, but now that I am old, unto death shall I offer my homage at

* [See the Monograph of Schwarz on Omar. Tr.]

the altar of beauty." Two young ladies once visited the Ka'ba for religious purposes. An old man went up to them, spoke to them, and asked them their names. When they spoke to him he rejoined :—"Young friends, to the beautiful I owe a duty, and wherever I see beauty I offer my homage to it. When I saw you I was taken captive by your youth and charm. Enjoy them then before you complain of their loss." This man was Omar. Fearlessly in his poems does he mention the names of the ladies to whom he paid his court.

Thus :—

I sent my female slave and told her to be on her guard.
And speak flatteringly to Zainab to be good to her Omar.
Who would blame thee if thou hastest the mortal malady?
Shaking her little head she asked "Who hath sent thee for this purpose.
It is thy feminine craft? We know thee here."

Quite characteristic is the adoration of women mirrored everywhere in his poetical works. It points to the high position the Arab women then occupied. At the conclusion of a meeting to which he had been invited by several noble ladies who had learnt to know him and were anxious to hear him recite his poems, he was bold enough to say: "I have long felt the desire of paying a visit to the grave of the Prophet at Medina, but I have now resolved to abandon my intention in order that the memory of my visit to you may not be darkened or

eclipsed by anything else. At the time when the Syrian caravan was about to reach Mekka Omar in the company of the most famous singer of Mekka, Ibn Suraij, went to meet it. They mounted two fine dromedaries dyed with *henna* as was usual on festive occasions; while the saddle and the trappings gleamed with gold-embroidered brocade. Both Omar and his companion were clad in the finest dress. Until dusk they whiled away the time flirting with the female wayfarers. When it became dark and the moon rose, they ascended an elevation in the neighbourhood of the caravan road, and Ibn Suraij struck his finest melody. It was not long ere a man riding on a beautiful charger stopped to hear them and begged the singer to repeat the song. When he heard the song, "By God," said he, "thou art Ibn Suraij, the singer of Mekka and thy companion is Omar Ibn Rabbiyah." They confirmed his conjecture and asked the stranger who he was. But he would not reply. His silence annoyed them to such a degree that they told him "Even if thou wert the son of the Caliph thou couldst not have been more mysterious." "Indeed," rejoined the stranger, "that I am." Then the two rose and apologized. The stranger, removing his upper garment, took the ring off his finger and presented it to them. Then he spurred on his charger and at full gallop proceeded towards

the caravan.* This story drawn from popular life vividly and graphically describes to us things as they then happened in Mekka. In the higher circles of the holy city, life was one continuous stream of pleasure. Yet a crude form of luxury might be noticed side by side with a very distinct refinement of social life and manners. Poetry and song added charm to social intercourse and relieved the monotony of the primitive life, introducing into the otherwise sensual relation of the sexes a spirit of chivalry. The rich Mekkans passed away their time with love, wine, and song. The need for a centre of social union was indeed early felt and satisfied, and a gaming house, a kind of club, was founded by a patrician in easy circumstances, where chess and draught boards and even books were found to please, to amuse, and to instruct the members. On the walls of the rooms, so adds the very accurate old Arab reporter to whom we owe this information, were wooden pegs inserted where the members could hang their upper garments in order more conveniently to play a game or to read a book or to carry on conversation with acquaintances.†

A guest-house is also mentioned as existing in early times in Medina, an institution which later occurs in the forms of caravanserais

* Aghani, I, p. 101.
† Aghani, IX, 52.

or public dining saloons established as pious endowments. Scenes drawn from town-life might be multiplied at will, but enough has been said to give an idea of life as it then was. The view of social life presented here is materially different from the generally accepted view of the social life and conditions of those times. As a supplement to the portrait of Omar we might find a fitting place here for that of the poet Arji, who though a debauchee, was yet one of the most original poets of that age. The courtly Arji, belonging to the highest society, was the grandson of the Caliph Othman. Pleasure-loving and careless, he used in his poems without the slightest hesitation the names of his lady-loves. A freedwoman of a land-owner who lived in her country chateau at some distance, used as often as she heard of Arji and his poems to express indignation against him, saying that the poet had compromised the honour of the noble ladies, and regretted that none could summon sufficient courage to condemn his vulgarity. "If ever I see him," added the fair Kolaba, "I will soon repel his advances." Arji hearing of this at once set about to lay a trap for her. When she was once at home alone with her servants he came and asked for an interview, but she, true to her word, shut the door against him, and when he insisted upon an entry she showered stones at him and thus kept her word. Arji, to avenge

the insult, composed a poem of a compromising character, which was circulated broadcast by the musicians of Mekka. Naturally the poem came to the knowledge of the master of Kolaba. He grew suspicious and sent her to Mekka to take an oath in the holy temple and thereby vindicate her innocence. He brought her to the town, according to the usual practice, on a camel between two sacks filled with camel dung, and there in the temple on the holy spot between the corner of the Ka'ba and the standing place of Abraham he made her take the oath of innocence. Without hesitation Kolaba took the sevenfold oath and vindicated herself. Thereupon her master received her with open arms and as often as he heard the verse of Arji's sung :—" I have been already long accustomed to find favour with thee" ; he was wont to say :—" No—by God! he is lying. Never has such a bliss fallen to his lot." In a different manner however the following gallant adventure ended. For a long time Arji solicited the favour of a beautiful woman who always repelled his advances and veiled herself as soon as she saw him from a distance. Once, out in the open air, Arji saw her from afar in the midst of a number of women. To get at close quarters to the object of his devotion he hit upon a device. He stopped a Beduin who was carrying on his camel two skin bags filled with milk for sale in the town. Arji

gave him his horse, his elegant dress, and exchanged for them the camel and the Beduin's costume. Thus disguised he approached the circle of women and offered them milk for sale. Gaily did the ladies take the milk while Arji sat on the ground with a down-cast gaze casting fugitive glances at the object of his admiration. Then one of the girls questioned him, "What hast thou lost, thou son of the desert, that thou art constantly looking at the ground?" "My heart," was the incisive reply. "Ah Great God!" then cried the lady, "It is Arji." She jumped up and veiled herself.

Counting upon his kinship with the ruling family Arji at times carried his wild pranks too far. He owned a palm plantation in the district of the tribe of Banu Nasr whose camels and sheep often strayed into his enclosure. Every such animal he killed and with it he entertained the poor. Well-versed in the art of gallantry he was no mean archer, and often enough a hundred animals fell to his arrows.

By a fling at the wife of the Governor of Mekka whom he mentioned in one of his impertinent verses he sorely offended the husband, who soon got an opportunity for wreaking vengeance upon him. Arji fell into a dispute with the freed man of his father, a dispute which passed from high words to mutual abuse. To avenge himself Arji with a

number of servants attacked him in his house at night, had his wife ill-treated in a cruel manner, and ended by killing the man. On the complaint of the widow the Governor caused his arrest, ordered stripes to be administered to him, placed him on the pillory and threw him into gaol where he died.*

The two characters of Omar Ibn Rabiyyah, and Arji show us the life of the higher circles in Mekka with its freedom and license. This town was then in reality the fashion-setting metropolis of Islam, and the spiritual and intellectual capital of an empire which stood in closest connection with the most distant provinces through the institution of the annual pilgrimage. A love of pleasure and gaiety, as also a spirit of religious indifference, prevailed in and permeated the aristocratic society of Mekka; not unlike the spirit which manifested itself in Damascus, the residence of the Omayyad Caliphs, and an art which the orthodox party had from the beginning regarded as dangerous and pernicious now came into vogue at Mekka and thence spread throughout the whole empire. It was the cheering art of music and song which went everywhere hand in hand with the enjoyment of the fleeting present, careless of the unknown future. This was ever and anon most violently opposed by the hypocrites and

* Aghani, I, 153; VII, 145.

fanatics, who fondly dwelt on the horrors beyond the grave, banishing every joyous impulse from the heart. Henceforward, the prohibition of song and the destruction of musical instruments became a favourite propaganda of the Muslim divines, the substance of whose sermons consisted of the portrayal of the terrors of hell, the wrath of God and the sinfulness of the present world. They sought to plunge the whole world into the dark by-paths of ascetic seclusion, and later into the dismal abyss of an over-wrought mysticism. Song and music therefore were forbidden by moral censors appointed by Government. But as is always the case where the impossible is aimed at, it was observed more in its breach than in its observance, and the art of singing with musical accompaniment which originated in Mekka constituted from its institution till the latest times the only art, together with poetry, which was cultivated by the Arabs, and which in the hey-day of Arab culture not only tended to the improvement of the mind and the refinement of social intercourse, but equally to soften, to elevate and to purify the relations between the sexes. The first impetus came to the Arabs from foreigners. The oldest singers imitated the Persian school of music. It appears that Persian captives of war came in large numbers to Mekka. It was from them that the Arabs

first learnt to sing with the accompaniment of the then musical instruments, the drum (Duff), the tambourine, the flute, the lute, etc. Ibn Mussajjih is mentioned as the first who introduced Persian notes into Arabic. He heard the Persian workmen, engaged in the repairs of the Ka'ba, singing, while at work, according to their native style, and these he imitated. He met with such a brilliant success that the young men of the best families sought his company and paid enormous sums to him. The rage for him became so great that it drew the attention of the Governor, who reported to the Caliph at Damascus that the young aristocrats of Mekka were positively ruining themselves over Ibn Mussajjih, the singer. Upon this report, orders were received from Damascus to send the singer to the capital. He sang at the court and sang so well that the Caliph sent him back to Mekka loaded with rich presents, intimating to the Governor at the same time that he should not be worried any longer.* Mabad and Jarid, the two most celebrated musicians of those times, were his pupils. Mabad was originally a slave, but later he became a freedman. As a boy he had to tend sheep, and he himself has related how he first received his musical inspiration. "I was a slave," says he, "of the family of Kattan and had to tend sheep

* Aghani, II, 84, 86, 87.

on the stony pasture ground outside Medina. There at night I used to look out for a rocky cavern in which to take up my quarters and to rest myself, but as soon as I fell asleep, I heard foreign melodies resounding in my ears and on awaking I repeated them. In a short time Mabad acquired fame and amassed fortune. He trained young slave girls in music, and then after a thorough training he was wont to sell them at high prices. In this connection we have a charming anecdote to tell. Mabad had a slave girl called Zibya (antelope) trained in Music, whom he sold to a rich man of Khuzistan, who fell so deeply in love with her that he became absolutely disconsolate when she was prematurely torn away from him by death, but many of her songs had been learnt by a companion slave girl who used often to sing them to her master. This aroused an intense craving in the master of Zibya to see Mabad. Mabad, hearing of this decided to pay an unexpected visit to him. From Mekka he travelled to Basra where he tried to take ship to Khuzistan. It so happened that the very same person had come to Basra on business and had chartered a ship to return home. Mabad without knowing him begged and obtained a passage on the vessel. He was shown a place on the deck and the ship sailed. On arriving at the mouth of the canal of Obollo the midday meal

was served. At the conclusion of the meal wine went round the company, and, in the best of humour, the rich man ordered his slave girl to sing. Mabad shabbily dressed, in the fashion of Hejaz, in a worn-out cloak, heavy shoes and an old furred coat, sat quiet in a corner. The slave girl taking the lute sang, according to the melody of Mabad, a song the beginning of which was as follows :—

Away is Soad! torn is the tie of love,
She visits the low-lying, sandy country of Adma.

She sang various notes false, and Mabad, unable to check himself, called out to her that she was singing false notes. The company, offended at this, made use of harsh language towards him. Then the slave girl again took up the lute and proceeded :

Daughter of the Azdites! my heart is rent with grief,
Woe! that no consolation comes from her!
All reproach me. I call out loudly
That though she repels my advances I still seek her as my bride.
Inch by inch love is draining my life,
To be sure the consuming passion is quite amazing.
Censurer who reproachest my devotion towards her,
Thou shouldst be the first victim of those whom thou reproachest.

The girl again singing some false notes, Mabad could not keep quiet, and thereby met with yet another reprimand. The slave girl entertained

the company with some more songs and he silently listened to her until she came to the following air:

"Companions, grant an hour of respite unto me,
Here at this place full of recollections to me.
Urge me not onward when I stand here at the spot of Azzas' tent.
For now I stand in a dreary, howling waste.
Speak love again unto this half recovering heart,
And to the eyes, shed streams of tears.
Never will the happy time return which we together spent
In springtide and during beautiful moon-lit summer nights.

Again she sang false notes. Mabad could not resist any longer and called out to her "Can't you sing some airs at least faultlessly?"

His host became so enraged that he threatened Mabad to throw him overboard at once if he again took such liberties. Then Mabad held his peace until the slave girl had concluded her song. When there was a pause he raised his voice and sang the first air, then the second and so on. Suddenly the scene changed. Every one, full of admiration, gathered round him with apologies. He then revealed his identity. The rich man of Khuzistan and his slave girl kissed his hand and feet and asked for forgiveness. They travelled together to Ahwaz, where Mabad in the house of his patron enjoyed a princely

hospitality and returned to Mekka loaded with rich presents. Henceforward the passion for song and music rapidly spread, and both Mekka and Medina became the nurseries of this art, supplying to the court of Damascus an unceasing stream of musicians. Among the young nobility of Mekka the passion for music was supremely dominant.

Hudali, a stone mason of Mekka, was dowered with a great natural gift for music. When at work in the quarries young people used to look out for him, bring food, drink and money to him, and beseech him to entertain them with songs, but Hudali, anxious more for his wages than for anything else, would request them to assist him in his work. Even to this his admirers would consent, and tucking up their *kaftans* and rolling them round their waists they would carry stones for him. Ascending a rock, Hudali would sit down and begin to sing, while those below him lay down on the soft sand regaling themselves till sunset. An eye-witness to whom we are indebted for this information adds that when Hudali sang, the entire hillock looked red and yellow from the variegated colour of the upper garments of the people listening to him. Not merely men but even women devoted their attention to this enlivening art, and early indeed did it come into fashion for the nobility to pay court to female singers. Jamila was trained by Saib

Kathir, one of the earliest musical celebrities of Medina, but she soon outshone her master in music and lute-playing. Her husband was a client. She set apart a day for public receptions at which she appeared splendidly robed. Even her female slaves whose finely braided hair, bunchlike, fell down their backs, she bejewelled and bedecked in variegated garments, and in this manner did she receive visitors. Having invited one of the most influential men of the town—an Alide—who accepted her invitation and came to her, she honoured him by singing a song in praise of his family.* But these artistic tendencies had also their darker sides, which at that time and among those people appeared all the more acutely as there was no counteracting influence. Besides religious quibbling over the Qur'an and traditions, matters with which only the people of the lower order, especially the clients, concerned themselves, there were no other serious scientific studies.† Thus it happened that intercourse with singers, male and female, soon led the elegant youths of the capital of North Arabia into most

* Aghani, VII, p. 144. About Saib Kathir we only know that he was of Persian descent. He is said to have been the first who imitated the Persian style of singing in Arabic and the first who established the artificial Arab music. He was the first who manufactured lutes in Medina. On account of his excellent manners and fine voice he obtained admission into the best families. Aghani, VII, 188.

† [See Weil's Geschichte der Islamitischen Völker p. 143 et sq. Tr.]

dangerous paths. They could not, in the nature of things, amuse themselves day after day with wine and love-songs without falling into the meshes of intriguing women. The singers, for whom, above all, there was only one object, and that was to amass wealth as quickly as possible, soon became a medium for unchaste amours. Besides constant and immoderate indulgence in wine and women, the effeminate youths sought lewd games and unchaste arts to excite themselves into passion. Thus arose a class of singers who set themselves the task of shamelessly amusing and artificially arousing the passions of youths sunk irretrievably in immorality. This class of singers who more and more attracted a crowd of degenerate youths, were described by the peculiar name of *Mukhannath* which practically corresponds to what the ancients called *Cinaedi.* They pressed their services in the interest of both the sexes and, wherever they obtained access, they destroyed the peace of the family. For this reason the authorities both in Mekka and Medina proceeded with the utmost rigour against them.* These *Cinaedes* imitated women in their costume and external appearance. They dyed their hands with *henna*, wore bright-coloured female dress,

* Under the Caliph Sulaiman all the *Mukhannath* of Mekka were castrated, Aghani, Vol. IV, 60. To this class belonged the famous singer Ibn Dallal. Aghani, II, 171, 172.

combed and plaited their hair, and sang to the accompaniment of drums, and performed most obscene dances, still to be seen in the East. By their conduct the singers and the musical profession, which from the very beginning had excited the wrath of the religious party, were brought completely into discredit, and several governors enforced repeatedly the most severe measures against them. Thus a governor of Iraq (Khalid-ul-Kisri) prohibited under severest punishment music and song, making an exception only in the case of Hunain, the celebrated singer of Hira. But in the East even the most infamous and dishonourable professions, on account of the close cohesion of their members (for instance, robbers, procuresses, etc., etc.) tend to resolve themselves into guilds. It is therefore scarcely to be doubted that the licentious brood of cinaedes (*Mukhannathyn*) had their own guild, and as such inspite of persecutions continued to exist. It is not surprising therefore that they are still to be found in some places in the East, for instance, specially in Egypt, where on certain festive occasions, particularly at weddings, male dancers called *Khawals* as well as female dancers make their appearance. They wear female dress, imitate in their bearing and movement female ways, they blacken their eyes with collyrium and they paint their eyebrows. They are beardless, their

hair is long, and like women's, is artificially plaited in queues to the end of which gold coins are attached. Their hands are dyed with *henna*, as is the case with women, and in the streets they generally appear veiled, not from any sense of shame but merely to affect the manners of women. These *Khawals* whom we may still meet in the streets of Cairo are the modern descendants of the Arab *Cinaedi*. I have not met them in other oriental towns like Damascus and Aleppo. Perhaps they are still to be found in Mekka— the holy city, where, as is well known, all forms of immorality are greater than in any other place of the Muslim world.*

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* Laue, The Modern Egyptians, p. 351.

III

THE POLITICAL INSTITUTIONS OF THE PATRIARCHAL TIMES.

As a prophet and reformer of his people Mohamed could not be otherwise than a revolutionary in the fullest sense of the word; for his religious propaganda introduced not only a complete change in the political situation but also had an equally important bearing on the social conditions. Let us place ourselves in the position of the first Muslim community when it gradually collected in Medina. Poor and destitute, it lived through the first years almost entirely upon the generosity and hospitality of the well-to-do inhabitants of Medina who, by accepting the new teachings, linked themselves to the Prophet and his fate. By predatory expeditions against the Mekkan caravans, by vanquishing the rich Jewish colonists in and about Medina, Mohamed soon managed to help his votaries out of their difficulties. He personally undertook to distribute the booty and thus he set at rest all disputes and causes of friction within his community. For his followers he was all in all. If he suffered want and penury, they suffered with him. Thus was settled, already at the time of the Prophet, the practice of distributing the state-revenue

among the people ; *i.e.*, the entire community, if we could call booty, poor-tax and voluntary contributions, such uncertain things as these, state-revenue at all. Mohamed liked to show preference to his nearest relatives and no Arab could see anything improper in it. In the Qur'an (Sura 8, 42) there is a passage where the right to the donation from the state-treasury is expressly conferred upon the relatives of the Prophet. Exceptionally strong, indeed was the tie of kinship among the Arabs of the olden days. What we, in our modern diction, call "nepotism" and against which so much is said, though founded on human nature, always passed among the Arabs as something plausible ; nay, on account of the family tie, a morally-enjoined obligation. To his best virtues among which, in any event, must be reckoned a genuine Arab generosity, the Prophet clung fast ; and that, indeed, not towards his kinsmen alone but towards all ; for he remained ever true to the principle, set up by him, of the equality and close brotherhood of all Muslims. This principle was of universal application. The Prophet, being the common administrator of the property of the faithful, if any one of them died leaving a debt behind, he undertook to pay it off. Bukhari has handed down to us a tradition which says : the Prophet used to ask when a Muslim died whether he had left sufficient assets to discharge his debts ; if the answer was in the

affirmative, he personally conducted the funeral service; otherwise he suffered it to be done by the community. After his conquests he said: "I stand closer to the Muslims than they themselves. If any one of them dies and leaves a debt behind, I shall undertake to discharge the liability; but if he leaves property it will go to his heirs."*

Let us begin our survey of the social and political conditions of those times with the sources of the state revenue. The taxes will, therefore, first engage our attention. Next to the prayers the payment of a tax, described as *Zakat*, is recommended in the Qur'an. The word is borrowed from the later Hebrew vocabulary and signifies 'purification' which the Arabs explain by saying that the payment of this tax cleanses the faithful and his property of all sins. In the Qur'an the command to pay the poor-tax (*Zakat*) directly follows the command to pray: "perform the prayers and pay the poor-tax." (Sura 2. 40.) This tax had a strong communistic complexion which is made all the more clear by the following tradition. The Prophet sent Ma'd to Yaman and told him: "Summon the people to swear to the confession of faith that there is no God besides *Allah* and

* Bukhari, 1426: this tradition will be found in Beladhuri, p. 458, but with a different *Isnad*. It goes back to *Abu Huraira* who vouches for its genuineness but we know that *Abu Huraira* can, in no way, be regarded as a trustworthy reporter.

that I am his messenger. If they listen to it teach them further that God has ordained five daily prayers. If they are still amenable teach them further that God has ordained the poor-tax (*Sadakah*) upon their property which is to be collected from the rich for distribution among the poor." Such importance did the Prophet attach to the poor-tax that, like the prayer itself, it was enjoined as absolutely obligatory upon every true Muslim.* In order that the poor should not be burdened with this tax, certain checks were imposed upon it. We propose, here, to collect the most important of those legal rules. To his tax-gatherer in Bahrain† Abu Bakr wrote as follows: "In the name of God the Merciful, the Compassionate. This is the law, relating to the poor-tax, announced by the messenger of God under Divine sanction. Of the Muslims whoever is called upon to pay this, let him pay; but he who is called upon to pay more; let him refuse: one sheep for 24 camels or, below this number, at the very least five; a female camel, in her second year for 25 to 30 camels; a female camel three years old for 36 to 45 camels; a four-year old camel for 46 to 60 camels; a five-year old camel for 61 to 75 camels; two milch camels for 76 to 90 camels;

* Bukhari, 882. [Prof. Shibli, Al. Faruq, Pt. 11, p. 57. Sec Grimme, Das Leben Mohammeds, p. 154 et seq. Tr.]

† (Cf. Goldziher, M.S. II, p. 50. Tr.)

two full-grown Hikkah for 91 to 120 camels; when the number exceeded 120, for every fifty a Hikkali." He who had only four camels was exempt from this tax unless he paid it voluntarily. Any one having only five camels had to give a sheep. Of the sheep, if there were from 40 to 120, a sheep was to be given as poor-tax; from 121 to 200, two sheep; then for every succeeding hundred, a sheep. But a flock of sheep, numbering only 39 or less, was exempt from the poor-tax unless the owner voluntarily paid it. For gold: $\frac{1}{4}$ of the tenth was to be paid as poor-tax; but if valued at 190 dirhams or less no tax was levied unless the owner voluntarily paid it.* Old or defective animals were not accepted in payment of this tax.

In addition to this the first Caliph issued a further ordinance, by which the relative values of camels and sheep were fixed. "He who should deliver a Gada'ah as alms on his camels, but does not happen to possess one, may deliver instead a Hikkah with two sheep, or the money value, *i.e.*, twenty dirhams. He who should deliver a Hikkah, but does not possess one, whereas he does possess a Gada'ah, may deliver the latter, and receive from the collector two sheep or twenty dirhams; he who should deliver a Hikkah, but only possesses a Bint-labun, may

* Bukhari, 921. Cf. Mawardi, p. 199. [Campare Hedaya, Vol. I, p. 11, Eng. Translation. Tr.]

give that and take back two sheep or twenty dirhams. He who should deliver a Bint-labun, but does not possess one, whereas he does possess a Hikkah, should deliver the latter and receive back from the collector two sheep or twenty dirhams."

Thus we see that it was found necessary even then to establish a tariff of prices, fixing the rate at which camels, in which the greatest part of the alms was paid, should be taken by the revenue department. Sheep served as change, and the price of one in Abu Bakr's time was relatively very high, ten dirhams (10 francs).

The provisions of Abu Bakr were ratified and completed by his successor Omar I.* A copy is preserved of an edict which he issued dealing with the subject. "In the name of God, etc. This is the law of the alms. Where there are 24 camels or less, one sheep is to be delivered for each five camels: where there are more than 24 but not more than 35, one Makhad-calf, or if there be none one Labun-calf (male): where there are from 36 to 45, a female Labun-calf, where there are from 46 to 60, a Hikkah, where there are from 46 to 75, a Gada'ah: where there are from 76 to 90, two Labun-calves (female): where there are from 91 to 120, two Hikkahs: in

* [The estimate of Abu Bakr's and Omar's character in Ranke's Weltgeschichte, Vol. V, pp. 110-111. Tr.]

case of large numbers, a Labun-calf (female) for each 40 and a Hikkah for 50.*

Law as to the alms on flocks of sheep. Where there are from 40 to 120, one sheep to be delivered: thence up to 200, two sheep, thence up to 300, three sheep; in case of larger flocks, one sheep per hundred. There should not be offered as alms a ram nor any old or defective beast, unless the collector permits. In the collection of taxes two distinct objects of taxation should not be amalgamated, nor identical objects separated, so that the alms may be rightly collected. In the case of goods owned by partners, each should pay his proportionate share. In the case of silver, where there is as much as five ounces, one-fortieth should be paid, *i.e.*, $2\frac{1}{2}$ per cent."†

Corresponding to the patriarchal character of the times the practice of levying this tax was extremely simple. Abu Bakr, in distributing the state annuity, was wont to ask each member of the Muslim community whether he owned anything upon which the poor-tax could be levied. If the answer was in the negative he paid out the annuity in full; if, on the contrary, in the affirmative, he deducted the required amount.‡ The principle was that this tax was payable

* Cf. Mawardi, p. 197. Abu Yusuf, fol. 43.

† Sharh-ul-Muatta, II, pp. 55-56. Also Tirmidhi and Abu Da'ud.

‡ Sharh-ul-Muatta, II, p 44.

upon property owned for a period of one year. All Muslims had to make a statement as to the amount of their property. Omar I moreover, specially directed his tax-collectors not to oppress people and take away the best animal out of their flock. And at a still later date Malik affirms that it was not customary to refuse animals given, by way of tax, on the score of unserviceableness. We see from this how simple were the customs of those times and how little did the government then contemplate fiscal oppression.

This tax was levied upon cattle also. No tax was leviable upon less than thirty cows. For thirty cows a *Tabi* (one-year old calf) was to be given; for 40 a *Mossinnah* (a cow at least three years old).

In the earliest times no poor-tax was levied on other beasts of burden; *the general rule being that poor-tax was payable for arable land, precious metals, and flocks*, to which the commentators expressly add that by 'flocks' was meant camels, cattle and sheep.* No tax was levied upon horses or slaves. In support of this rule was quoted a saying of the Prophet: "I remit the poor-tax on horses and slaves, but let them pay on gold."† On the other hand,

* Sharh-ul-Muatta, II, p. 43.

† Traditions of Abu Da'ud cited in the Sharh-ul-Muatta, II, p. 73. According to a passage in Abu Yusuff, Abu Hanifah is said to have ruled that a Dinar was to be paid for every horse.

eatables, especially corn and vegetables, were liable to taxation. Fruits with the exception of dates, raisins and olives, were exempt from taxation. But liability to pay the tax only commenced for quantities exceeding four *wask* (camel load). As for dates and grapes the valuation depended upon the harvest. As for palm plantations and vineyards the valuation was arrived at upon a conjectural basis and as soon as the assessment was made the owner was left to deal with it as he pleased.* Honey was exempt from taxation. According to Malik in the assessment of the poor-tax upon land a distinction was made according to the quality of the soil.† The prophet said that everything which grew upon land, watered by heaven or natural springs was liable to *Ushr* (the tenth), but all produce, needing artificial irrigation, was liable only to half of the tenth. The following were liable to *Ushr*: barley, maize, wheat, peas, lentil, rice, millet and sesame.‡ Omar I, to encourage the import of cereals to Medina (for Arabia then had, as she now has, to import considerable quantities of cereals), reduced the tax upon them to half of the tenth.

Also the Aramœic population of Arabia Petræa, the Nabœteans, were only liable to half

* Sharh-ul-Muatta, II, p. 65.

† Ibid.

‡ Ibid, p. 68.

of the tenth,* (*Ushr*) on wheat and oil. For other food plants, described by the Arab jurists as *Kitniyyah* and by us called pulses, the different kinds of peas, beans, etc., etc., he allowed the tax of the tenth to continue.† All other fruits and vegetables were exempt from taxation.‡ The third important items of taxation were pure gold and precious metals. As to taxation on gold the Prophet had laid down no rules in the Qur'an. Only a saying of Ali is preserved, which runs thus "Pay tax on gold; for every 20 *dinar* a *half-dinar*." But this tradition is not well-authenticated though quoted by all later jurists. According to Malik the tax on gold is as follows: Everything under 20 *dinars* is free, but beyond it is taxable.§ The tax was ½ a *dinar* on 20 *dinars*, *i.e.*, 2½ per cent.‖ The rule, however, always held good that the taxable capital should be in possession for a full year. This tax was also levied on moneys received as hire for slaves or rent of houses.¶ Quarries and mines were equally liable to this tax, but with this difference that here it fell due, immediately on the discovery of the mines and quarries, and not after a year, as was the case

* Sharh-ul-Muatta, II, p. 76.

† Ibid, p. 70.

‡ Ibid, p. 71.

§ Ibid, p. 45.

‖ At first a *dinar* was reckoned as equivalent to ten dirhams, but at the time of Abu Hanifa, to 12 dirhams.

¶ Sharh-ul-Muatta, II, p. 45.

with the harvest crop.* Of the treasure-trove the state took one-fifth. Gold ornaments were annually weighed and if the weight showed more than 20 *dinars* the payment of this tax became obligatory.† Amber and musk, being most costly and largely used, were not subject to taxation. A kind of tax‡ was also levied on the mercantile community, but it did not belong to the category of the poor-tax but rather to that of the general state revenue. Omar II gave the following direction to his governor in Aila, the modern *Akaba*, then one of the greatest commercial centres, for through it passed all caravans proceeding from North Arabia to Syria and Egypt: "take one dirham for every 40 dirhams from Muslims, and give them a quittance for the year. But from non-Muslim merchants take one dirham for every 20 dirhams."

This meant a tax of 2½ per cent. for Muslims and 5 per cent. for non-Muslims. A consideration of these facts will show beyond doubt that even in the earliest periods of the Muslim rule taxes were very carefully attended to and that the state-revenue was very considerable. As early as the time of Mohamed there was a special state-pasture where herds of camels and

* Ibid, p. 47.

† Ibid, p. 49.

‡ Ibid, pp. 51 and 52. In everything Omar II relied upon the precedent of the first Caliphs, and chiefly Omar I, so that it might justly be contended that this tax was really no innovation at all.

cattle and flocks of sheep which came in by way of taxes were kept and looked after.* The office of the overseer of the state-pasture (*Hima*) was indeed, a post of trust and confidence which Omar gave to his freedman. At the time of Omar there was in the state-pasture no less than 400,000 camels and horses.† In order to distinguish these from others they were branded with a special mark (*Wasm*).

According to the principle laid down by the Prophet the revenue derived from the poor-tax in herds and gold was applied in the following manner: (1) Equipment of the soldiers for war against non-Muslims, (2) Payment of officers entrusted with the levying and collection of this tax, (3) Support and maintenance of needy and indigent Muslims.‡ The nearest relatives of the Prophet, the members of the two noble Qur'aishite families of the *Muttalib* and the *Hashim*, were, however, excluded from sharing in it as they were already granted fixed annuities from the general state-revenue. But soon, indeed, the head of the state obtained full control and secured full power of disposal, at will, not only over the revenue derived from the poor-tax but all other state revenues as well. Early

*At the time of Mohamed the state-pasture was in Naqi; at the time of Omar I, in Rabada and Saraf. Mawardi, p. 322.

† Sharh-ul-Muatta, IV, pp. 246, 247.

‡ *Ibid*, II, p. 63.

indeed, was this view advocated in the juristic theories of the school of Medina named after Malik.* In the beginning of Islam, on the contrary, individual provinces enjoyed the privilege of distributing among its poor moneys realised from the poor-tax. Such was particularly the case in Yaman. Still more considerable amounts which really constituted the general state-revenue (*F'ai*) flowed in from other sources. Under the first and specially the second Caliph, the Arabs made extensive conquests: the richest and the most beautiful countries, Syria, Babylon and Egypt passed into Muslim possession and thence streamed in immense wealth to Arabia and the treasury of the Caliphs. The subject population had to make special contributions for military purposes besides the taxes which they paid either in coins or *in natura*. Christianity and Persism were the two religions which dominated in the Provinces of the Byzantine and Persian Empires conquered by the Arabs. According to the principle set up by Mohamed, negotiation could only be carried on with those in possession of a revealed book. The Qur'an called these *Ahl-i-Kitab* for they only had such holy books and believed in the prophets acknowledged by the Qur'an. Besides the *Samaritans*, such possessors of books were,

* Sharh-ul-Muatta, p. 64.

really, only the Christians and Jews, but the *Parsis*, in spite of the Muslim Law which was less indulgent to them than to the Christians and Jews, were treated by Omar I in precisely the same manner as possessors of revealed books. Othman extended this privilege also to the inhabitants of North Africa, the Barbers.

Twofold were the taxes which the subject population of Egypt, Syria, Mesopotamia and Persia had to pay: (1) the capitation-tax (*Jazya, tributum capitis*), (2) the Land tax (*Khiraj, tributum soli*). Both these taxes were probably adopted from the Byzantine Empire where they existed under these identical names. Of the Capitation-tax, we know that it existed even under the *Sassanides* in the Persian Empire.* By special treaties which the Arabs very scrupulously observed, individual towns and districts were conceded special privileges. In levying the capitation and land-taxes the Arabs followed the same principle all over the conquered countries. As to this subject the second Caliph was the first to legislate. He ordained that in countries where the gold currency obtained, such as Egypt and Syria, (the current coin there being the Roman Solidus,) all grown-up men should pay 4 *dinars* a year as capitation-tax. Whereas in countries

* Caussin de Perceval, Essai sur l'histoire des Arabes, III, p. 438. Instead of 4 dirhams read 4 *dinars* there. [Browne, Lit. Hist. of Persia, pp. 201-2. Tr.]

where the silver currency prevailed, such as Mesopotamia, East Arabia (Bahrain), Persia, (the current coin being the *Sassanide dirham*), the capitation-tax was assessed at 40 dirhams, the *dinar* being then valued at 10 dirhams. There were three classes of capitation-tax: the rich paid four, the middle class two, the poor only one *dinar*.

In Syria the capitation-tax was fixed on a similar principle, but we lack precise information. We only know that for each individual community this tax was fixed at an aggregate amount which continued unaltered, whether the number constituting the community increased or decreased.*

* Beladhuri, p. 269. *Malik* usually reckons a *dinar* as equivalent to 10 dirhams but in two places (III, p. 192, IV, p. 17) as equivalent to 12 dirhams. Later Jurists like *Abu Hanifa* and *Ahmad Ibn Hambal*, reckoned it as equivalent to 12 dirhams. Either it seems that the value of gold was raised or the purity and weight of the dirham were lessened. This is proved by later dirhams which weighed, on an average, 2.97 as against 3.9 of the earlier Sassanid-Dirham. Tradition of Ibn 'Aid. Ibn Asakir, Fol. 88. Walid reports as follows: Ibn Jabir and others related to me that they (the Muslims) concluded peace with them (*i.e.*, the inhabitants of Syria) on condition that they should pay a certain sum as capitation-tax which would neither be raised if their number increased nor cut down if their number decreased [*cf.* Müller, Islam im-Morgen und Abendland, Vol. I, pp. 277, 281-2 Tr.] I here place some facts about the capitation-tax in Egypt, under the Caliph Omar. The inhabitants of Egypt had to pay 2 dirhams per head and to supply a fixed quantity of wheat, oil, honey, and vinegar. But under him an arrangement was come to by which a sum of 4 *dinars* was paid inclusive of everything. Beladhuri, pp. 216, 218. The revenue derived from this tax then amounted to 14 million *dinars*. Suyuti, Husn-ul-Muhadhera, Vol. I,pp. 69, 70 [see Yaqut. Meynard's Tr., pp. 199, 412; Wellhausen, Das Arabische reich und sein sturz, pp. 172 *et seq*. Tr.].

In Egypt the capitation-tax for every grown-up male, capable of earning a livelihood, was 2 *dinars*.*

Besides the capitation-tax the subject population had to supply provisions for the troops and according to Omar's rule, indeed, were under an obligation to furnish monthly the following quantities for every Arab warrior: in Syria and Mesopotamia two *Modd* of wheat, three *Kist* of oil (Kist is the Greek Hohlmass), a certain quantity of honey and fat. The inhabitants of Iraq had to supply 15 *Sâ* of wheat and a certain quantity of fat not precisely known. The Egyptians had to supply monthly an *ardeb* of wheat and linen necessary for the clothing of the troops and the Caliph.† As to Omar's system of taxation we owe the following information to the Egyptian historian Maqrizi which completes and confirms the facts stated above.‡

"Omar issued orders to the commanders of the troops to levy the capitation-tax only on men who had attained majority; to levy 48 dirhams (4 *dinars*) per head wherever the silver currency obtained and 4 *dinars* where gold was the standard of currency. The inhabitants of Iraq had to supply 15 *Sâ* of provisions and a quantity of fat monthly for every Muslim;

* Maqrizi Khittat, I, 76.

† Sharh-ul-Muatta, I. p. 74.

‡ Mawardi, p. 256.

the Egyptians one *ardeb* monthly, a quantity of honey and fat, and further linen for the clothing of the troops, and finally they were bound to give free quarters to every Muslim for three days; the inhabitants of Syria and Mesopotamia [monthly] two *modd* of wheat, 3 Kist of oil and honey and fat. All non-Muslims, moreover, were enjoined to carry leaden tokens round their neck as a proof of their regular payment of the capitation-tax."

The capitation-tax imposed by *'Amr Ibn 'As* on the Copts at the conquest of Egypt was 2 *dinars* per head, and their number at that time was 8 millions. The land-tax was attached to the land and its produce. In Iraq, Omar appears to have first made acquaintance with this tax, where it existed even under the Persian rule, and he adopted it in its entirety. For every 3,600 square inches (Jarib) a *Kafiz* and a dirham had to be paid (Mawardi, p. 256). On the conquest of Babylonia Omar had the entire country surveyed, and fixed the land-tax as follows: for every *Jarib* of land, subject to periodical floods, whether cultivated or not, he levied a land-tax of one *Kafiz in natura* and one dirham in money.* For every Jarib of meadow-land, 5 *Kafiz in natura*, and 5 dirhams in money. For every *Jarib* of land, planted with trees, 10 *Kafiz in natura* and 10 dirhams in

* This completely accords with Abu Yusuff. *Cf.* Memorial, Fol. 21, 22.

coins. The same sum was fixed for every *Jarib* and vineyard or palm-plantation, but according to others, only 8 dirhams.* For every *Jarib* of sugar-cane, 6 dirhams; wheat-field, 4 dirhams; and barley-field, 2 dirhams.† We should not be surprised to find conflicting accounts as to details, but in spite of them, the principle underlying the system of taxation comes clearly to light. It was a thoroughly just principle of assessing the taxes according to the nature of the soil and the mode of its cultivation. We cannot, indeed, pass over unnoticed a very exceptional measure of Omar I which he sanctioned in favour of the Arab tribe of the *Banu Taghlib* who carried on agriculture in Mesopotamia. He would not treat this tribe, pure Arab as it was, on the same footing as subject races, though they obstinately refused to accept Islam and persisted in the faith of their forefathers, *i.e.*, Christianity. Omar, discharging them from the obligation of paying capitation and land-taxes, directed that the Taghlabides should pay double the amount of the poor-tax.‡ In Syria and Egypt there were some variations in the land-tax: the assessment and payment of the tax were determined according to the changing conditions of the agriculture. In Spain, after the conquest, the

* Abu Yusuff, Fol. 21.

† Beladhuri, pp. 269, 270.

‡ Ibn Athir, II, p. 410; Mawardi, p. 242.

Arab general divided among his troops all lands coming into Muslim possession by conquest and not by capitulation. But the fifth fell to the state and being declared crown land was allowed to remain in the hands of the Christians, the original owners, for cultivation as before, in return for delivery to the treasury of one-third of the produce. Lands obtained by capitulation, lying in the Northern provinces, remained in possession of their former owners as against the payment of the capitation-tax.* Next to these sources of income, one of the most considerable was the war-booty, of which the fifth fell to the treasury, a source which in the almost unbroken conquests of the first century, must have yielded immense sums. The increase in revenue soon brought home the necessity of keeping regular accounts of income and expenditure and for this reason, indeed, did Omar adopt the institution of the revenue-board existing in the Persian Empire under the title of *Diwan*: a name later on extended to all other government offices. When once the Governor of Bahrain came to Medina, he announced to the Caliph Omar that of the revenue of the province, he had brought with him only one half and that half amounted to a million dirhams. The Caliph treated it as a joke, for the figure far

* Dozy, Recherches sur l'histoire et la literatur de L'Espagne, I, 79, 2nd ed.

exceeded anything that he had hitherto heard. When convinced however of the correctness of his statement he thus addressed the people assembled in the mosque for prayer: "I have received great wealth from Bahrain: shall I weigh it out or count it over to you."* It is clear from this that quite in conformity with the spirit of the patriarchal times he intended to distribute among the community the money flowing into the state treasury. A man from among the people is said to have reported that he had seen the Persians keep their treasury in order by means of a *Diwan*, and he suggested that the same system should be adopted. Omar fell in with the proposal and directed a register of accounts to be kept showing both income and expenditure. This was an innovation in Medina. In the conquered provinces of the Byzantine and Persian Empire, in Egypt and Syria the books were kept by native Christians in the Greek language; in Babylon and Mesopotamia, by Persians in the Persian language. Under the Omayyad Caliphs, Greek and Persian were displaced (by Arabic) for the first time, as official languages from account books, tax rolls and chancery.† In Medina itself Omar had such a registrar of income and expenditure prepared with which he combined a system of

* Abu Yusuff; Memorial, Fol. 27.

† Beladhuri, pp. 193, 453. [See for further information, Wellhausen, Das Arabische reich und sein sturz, pp. 135-137. Vr.]

annuity for all Muslims, fixed on a certain, clearly-defined principles.

While earlier, Abu Bakr and even Omar himself, as we have seen, divided at once the state-revenue among the community;* the immense and rapid growth of the religious community of Islam, the conversion, *en masse* of almost all the inhabitants of the Arabian Peninsula, necessited the introduction of order and method in the distribution of money,—one of the most powerful levers of the new religion and one of the stoutest supports of the new state. Here the decisively democratic and socialistic conception of the original Islam lay at the basis. By its novelty and important consequences this political institution stands out as one of the most conspicuous land-marks not merely in the Islamic but in history as a whole. The embarrassment as to what was to be done with this immense wealth, occasioned the establishment of the institution of *Diwan*. Omar took counsel with the most distinguished companions of the Prophet as to how the division was to be effected. All were agreed in holding that the entire state-revenue was the common property of the Muslims and as such was to be distributed among them. They referred to

* Abu Yusuf, Fol. 25. Abu Bakr ordered in Medina, 9½ *dirhams* for all without distinction : men, women, and children, freed men, clients. In the following year when more wealth still came in, each received 20 *dirhams*.

the Byzantine institutions which the Arabs had learnt to know in their wars and they suggested that like the Greeks, who kept a register of paid soldiers, a general census of the Muslims should be undertaken and each member of the community should be assigned a fixed share.

In drawing up this census they carefully adhered to the principle of the division of the entire people into tribes and families. Beginning, as it might be expected, with the family of the Prophet, they made the other Arab tribes follow in succession according to their relationships or intimacy with the Prophet.*

Omar began his census with the widows of the Prophet. He placed 'Aysha' at the head of the list and assigned to her an annuity of 12,000 dirhams. She was followed by the rest of the wives of the Prophet who received 10,000 each. (According to Mawardi only 6,000 each; but according to Abu Yusuff all the widows of the Prophet received 12,000 with the exception of *Safiyyah* and *Jowairiyyah;* but they protested against it and received the same amount as the

* We can form a good idea of the tribal register by referring to the tribal register made by Wüstenfeld, and specially that of the Ishmalite tribe which is as follows : (I) widows of the Prophet, (II) Hashimides : (*a*) Ali and his family, (*b*) the Abbasids, (*c*) Abu Bakr and the tribe of Taim, (III) Omar and the tribe of Adi, Jomah and Saham, (IV) Othman Ibn Affan and, the Omayyads, (V) the Omayyads *in genere* etc., etc.

[For further information see Abu Yusuff Kitabul Khiraj, p. 24, Van Vloten, p. 14, and the notes. Tr.]

rest. (Abu Yusuff, Fol. 25, according to a tradition of Abu Mashar.) The same amount he assigned to the members of the Hashimide family: *Hashimides* and *Mutallibides* who had taken part in the battle of Badr. (Chap. XVIII, 1, p. 347. Mawardi.) After these followed those members of the Hashimide family (but with less amount) who had embraced Islam at a later stage. After the relatives of the Prophet came the *Ansars* and they began with Sa'd ibn Moad of the Aus tribe. Then came his kinsmen, among them those always had precedence who had early accepted Islam and had distinguished themselves in the wars and campaigns of the Prophet. In this, however, Omar departed from the practice followed by Abu Bakr which assigned the very same amount to all Muslims irrespective of rank and position. Proceeding on this basis he placed at the head those *Ansars* and *Muhajirin* who had fought in the battle of Badr; to everyone of these he allowed an annuity of 5,000 dirhams and the same to their allies (Hali) and clients (Mawali).

He assigned 4,000 dirhams to those who had either accepted Islam early or who, prior to the persecution of the Mekkans, had fled to Abyssinia for the sake of their faith. To the sons of the warriors who had taken part in the battle of Badr he assigned 2,000 each, making an exception only in the case of Hasan and Hosain on account of their close relationship with the

Prophet whom he allowed 5,000 each, and the same figure he fixed for Abbas Ibn Abdul Muttalib. He assigned 3,000 dirhams each to those who joined the Prophet prior to the taking of Mekka. To those who accepted Islam on the conquest of Mekka he allowed 2,000 dirhams each and the same amount to the sons of *Ansar* and *Muhajir*. For his own son he set apart 3,000 dirhams.* Some, who had enjoyed the special favours of the Prophet, received an exceptionally high annuity *i.e.*, 4,000 dirhams.† After these he arranged the greater mass of the Arab tribes according to their position in the tribal register, their knowledge of the Qur'an and their military services. To the *Yamanides* and the *Kaisides*, who had settled in Syria and Iraq he assigned a pay ranging from 300 to 1,000 and even to 2,000 dirhams.‡ All others were placed in a subordinate class. To the women, who likewise left Mekka after the Prophet's flight to Medina, he assigned a fixed amount: to some 1,000 dirhams; to others, various sums ranging between one to three thousand dirhams. 100 dirhams each he fixed for weaned children, raising the figure to 200 or even more when they grew

* Abu Yusuff.

† Mawardi, Chap. XII. His account agrees with that of Abu Yusuff whom he has undoubtedly used.

‡ Mawardi.

up. In this manner, indeed, did he provide even for foundlings whom he brought up at state expense.* It must specially be noted that Omar, in assigning annuities, made no distinction between the full-blooded Arab (*Sarih*), the half-Arab (*Halif*) and the client (*Mawla*). He would have all Muslims treated alike without distinction. This is the laconic order he issued to an Arab governor who, while refusing to the clients, granted annuities to the Arabs: "It is wicked in a man to despise his brother Muslim." Even to non-Arab converts did Omar assign annuities: to various Persian landlords in Mesopotamia and to a quondam Christian of Hira.

As regards foreign converts and their clients he gave the merciful counsel to his commanders to treat them on precisely the same footing as Muslims of Arab nationality. There was to be no difference between them in point of rights or of duties either. He even permitted that they should constitute a special tribe of their own governed according to the very same principles which applied to the Arab tribes in matter of annuities. 10 Dinar each he assigned to the wives and children of soldiers who had either fallen in battle or were actually engaged in active

* [See, Sir William Muir's article "Sprenger's Sources of Muslim Tradition," p. 135. Tr.]

service. This measure was confirmed by Othman and the later Caliphs.*

Not even the Muslim slaves did he leave unprovided for. An annuity of 3,000 Dirham each he assigned to the three slaves who had fought at the battle of Badr. Apart from the annuities he appears to have distributed fixed rations every month among the troops and the inhabitants of Medina: for every man, including his slaves, 2 *modd* of wheat and two *kist* of vinegar.

This Census of the Muslim population was apparently done with great care. Every Arab tribe, with its members, was entered on a special list and changes, due either to birth or death, were very scrupulously noted. It is reported that on one occasion the Caliph Omar I. went personally over with the register to the Khozá tribe and invited its members to come and individually receive their share from him.† Later under Muawiya an overseer was appointed who recorded births and deaths.‡

In considering these facts we will not hesitate to confess that here we stand face to face with one of the most singular events in history. A general census of the inhabitants was undertaken even in the old Asiatic Empires—as also it was

* [Shibli, Al-Faruq II, [illegible]9. Tr.]

† According to Beladhuri 448.

‡ Suyuti, Husnul-Muhadhera I, 71. This system of register was fully completed by Omar in A. H. 20.

undertaken in the Roman Empire—but the end in view was to make the burden of taxation heavier and to shut out every possible chance of escape from the clutches of the tax-gatherers. Omar I, however, effected the census, in a wholly different spirit. It was to assign to all who professed Islam their legitimate share in the state revenue, to which, according to the accepted notions of the time, they had an undoubted claim. We need hardly discuss the impression which this measure must necessarily have created upon the populace. Religious enthusiasm may have gone a long way towards the growth and consolidation of the new religion in the beginning but the astonishingly rapid extension of the Muslim Empire and the diffusion of Islam must be ascribed to the certain gain in money and property which the policy of Omar promised and secured to the faithful.

The subject races had to cultivate the land and do other menial labour. But the Muslims gathered and enjoyed the harvest and attended only to military duties. Apart from supplying provisions the subject races had to pay the capitation and land taxes. The Muslims only paid a poor-tax of $2\frac{1}{2}$ per cent. on their property and a land tax of 10 per cent. but as against these they received fixed annuities from the State and $\frac{4}{5}$ of the booty.*

* [See, Van Vloten, p. 3. Tabari, 1st Series 2761. Tr.]

The very same, identical interest linked the Muslims. one to another. One self same zeal fired and animated them all.

Thus did they establish their world-wide Empire on the solid and unchanging basis of human nature. To the material interests there was now added the pride of Arab nationality, called into being by Omar and evidently capable of the highest achievements. Nor must we lose sight of the weight of enthusiasm which the wonderous successes of the new religion evoked and justified.

To keep the Arabs* a ruling warrior-caste and to keep them, as far as possible, aloof from the subject races, Omar issued an order of considerable importance. He absolutely forbade the Arabs to acquire lands, outside Arabia, or to engage themselves in agricultural pursuits in conquered countries. The reason for this order was the conquest of that fertile basin of the Euphrates which we call Babylon and the Arabs 'Sawad.'

By 'Sawad' the Arabs meant the entire territory which extends from the South-Eastern borders of the Syrian desert at Udhaib and Qadisiyah to the mountain chains of Hulwan, the Zagros mountain of the ancients. In breadth from East to West, extending from Abbadan on

* [Khuda Bukhsh, Islamic Peoples, p. 58. Tr.].

the Persian Gulf; in length from North to South, covering the territory right up to the neighbourhood of Mosul, Sawad embraces not only Babylonia and Chaldea but also parts of Mesopotamia and Assyria. Watered by the Euphrates and the Tigris it has been since the remotest antiquity one of the most fertile and thickly populated lands of Asia. One of the most frequented commercial and trading routes led from here and from Syria, Asia Minor and Persia down to the Sea from where a lively exchange of wares took place by Sea from Apollogos, the Ubullah of the Arab geographers with Hinder Asia and India, as well as the Eastern Arabia, the East African Coast and the lands on the Red Sea. Within this tract of land lay in antiquity the beautiful cities of the various world-ruling Dynasties: Babylon, Ninevah, Seleucia, Ctesiphon (Madain). During the administration of the Sasanides, who had followed the Parthians and who had restored the old Persian fire-worship to its original purity, a period of peace and prosperity succeeded to the devastating wars between the Romans and the Parthians which had vastly contributed to the decay and ruin of its earlier wealth and opulence and by means of artificial canals a highly developed system of agriculture suddenly came, again, into existence.

Even, in antiquity, Arab tribes had their settlements here. Christianity had made progress

among them and a prosperous town, Hira, populated by Christians, was the seat of a dynasty of Christian—Arab Kings who ruled this province, as vassals of the Persian Empire;—while in the neighbouring Anbar were located the Persian Board of Revenue and the Government Commissariat.

Even at the time of Abu Bakr, strengthened by the Central and Yamanide tribes, who were led to join them mostly by hunger and necessity,—the Muslims had commenced their incursions into this rich and fertile Province.

Abu Bakr and after him Omar organised and directed this movement. The old war companions of Mohamed, his tribesmen, commanded the apparently untrained masses and soon the Arab army flooded the whole country. The Battle of Qadisiyyah made the Arabs masters of the whole of Iraq. Hira was retaken; Anbar was captured; Obollah, the most important harbour on the Persian Gulf, was conquered and the town of Basra was founded as a permanent military Station.*

Immense booty fell to the victors who (with the exception of the leaders and the Mekkans and the Medinites scattered in the crowd) were too simple and unsophisticated to form an idea of the vastness of their acquisition. Thus, at the

* Beladhuri, 246, 256.

capture of Hira, an Arab warrior received, as his share of the booty, the daughter of one of the noblest men of the town. When her people came to redeem her the Arab at once accepted their proposal for the lady was neither young nor beautiful. He was satisfied with a ransom of 1,000 Dirhams but when his companions heard of it and reproached him for accepting so trifling an amount since he could easily have obtained that amount ten times over, the Arab warrior replied: By God! I did not know that there was a larger figure then ten times a hundred.*

Absolutely worthless to the great mass of the Arab warriors were gold ornaments, carpets, silken stuffs, useful utensils and a thousand objects of luxury besides, which are so necessary and so dear to a people advanced in civilisation. What they (did understand) and what the Central Arabian tribes did prize, accustomed, as they were, to agriculture and cattle breeding, were land and agriculture, herd of camels, flocks of sheep, and noble steeds.

When Omar tried to organize the Arab tribes and to launch as quickly as possible, a large expedition against Babylonia it was the prospect of rich and splendid booty that he held out to them.†

* Beladhuri, 244.

† Beladhuri, 250, 253.

And lo! there came to him a chief of the Bajila tribe declaring his readiness to march with his men to Iraq against the Persians if the Caliph would, in case of victory, assign to his tribe, as their property, the fourth-part of the conquered land.

This promise Omar, in fact, did make. But when the whole of Iraq was actually conquered Omar found himself landed in a serious difficulty for the Bajila tribe had, in fact, supplied about one-fourth of the warriors to the army which, in the decisive battle of Qadisiyyah, smote the Persian Power through and through and destroyed it for evermore.

According to another tradition the Bajila chief had been assured, indeed, of a third of the entire territory.*

Whatever may have been the case; when the whole of Iraq was conquered, great disputes arose among the leaders of the army and the tribal chiefs. The men of Bajila insisted upon their right which was assured to them. Others would have Sawad treated as war-booty and as such would subject it to the rule of equal division among the troops after the exclusion of the fifth which belonged to the State. The inhabitants they would treat as slaves.

Omar had already promised the army all moveable properties and live stock after the

* Beladhuri.

deduction of the legal fifth for the State—but that did not satisfy the greed of the Arab warriors. They wanted land and slaves.*

Before making his final decision Omar ordered the conquered land to be surveyed and census of the population taken. To the survey we shall revert later, but as to the population it was calculated that (in the event of a division) three peasants would fall to the share of every Arab warrior. In consultation with the leading men, the Caliph decided to declare Sawad, as an inalienable Crown-land, for all time; the revenue of which was to be employed for the benefit of the Muslim State.

He induced the Bajila tribe to retire from the land which, according to some reports, they had actually taken possession of. To their chief he presented 400 dinars and raised the annuity of every member of his tribe to 2,000 Dirhams.† The Caliph allowed the inhabitants of Sawad to retain possession of their land as against a poll-tax and a tax *in natura* upon the produce of the land according to the usual scale. With this decision, regarding the conquered Sawad, the Caliph appears to have excluded Muslim warriors from holding lands, for all time, in conquered countries. Arabia, of

* Beladhuri, 226. Geschichte der herrchender Ideen des Islams, 460, 461.

† Beladhuri, 265-268.

course, was excluded from the operation of this rule.

We see, how on the whole the principle, that none of the conquered land of Sawad should be purchased, was faithfully adhered to. Only two districts formed an exception to this principle and were allowed to be sold, but that only to non-Muslims: they were the Districts of Banu Saluba and of Hira—the inhabitants of which had capitulated in time, and therefore their land was not treated as land conquered by force of arms.* The following instance illustrates the severity of the rule against Muslims holding landed property: When the Governor of Egypt (Amr Ibn 'As) built a house in Cairo; the Caliph administered a reprimand to him.† So little, indeed, was Omar inclined to permit the Arabs either to settle down in Egypt or to engage themselves in agricultural pursuits.‡

In spite of an official circular, forbidding Muslims from engaging themselves in cultivation, a soldier had ventured to acquire and cultivate land. He felt justified in doing so as his pay was considerably in arrears. The Governor reported the matter to the Caliph who

* Caussin de Perceval: Essai Sur L'histoire des Arabes, III, 107. Beladhuri, 245. On Sawad: Masudi, IV, 204, 262. Journal Asiat., 1861, XVIII, p. 414; 1865, Vol. V, 242.

† Weil, Gesch. der Chalifen, 1,117.

‡ *Ibid.*

immediately summoned him to Medina to receive his punishment.*

We, now, proceed to the Military organisation under Omar which stands in intimate connection with his policy towards the conquered lands.

It would be an error to suppose that, in military matters, the Arabs, in the beginning of Islam, were entirely without experience. They were acquainted with both the Byzantine and the Persian art of warfare and in their own unceasing wars had acquired very considerable practical experience. On the Southern and Eastern borders of Syria resided the tribes liable to military service to the Byzantines. They were the tribes of Bahra, Kalb, Salikh, Tanukh, Lakham, Judam and Ghassan and these had adopted many of the methods of warfare of their Suzerains.

Even in the wars of the Prophet with the Mekkans there was a system and a method; just as there was a method in the defence of Medina by a ditch and a rampart. Of course they had no idea of the division of the troops into regiments or legions or closely constituted corps. They were arranged according to their tribes and they were familiar only with two kinds of soldiery: cavalry and infantry.

* Culturgeschichtliche Streifzüge. 63. 64.

The weapons of the foot soldiers consisted of a shield, a lance, a sword, or only a bow or a sling. Shields served as weapons of protection. They were of two sizes, large and small. The former were made of wood covered with leather or mounted with metal. The latter were of round shape. There were also bucklers which later became the exclusive weapon of protection of the Saracen cavalry, and which were used as such by the Turks and the Persians till late in the Middle Ages, and are still so used by them.*

The lance was the chief weapon of the cavalry. It was 10 Cubits (cubits) in length.†

A military author states that in no case should a lance be longer than 10-11 cubits.‡ The shaft was of elastic wood. The most popular was the bamboo reed imported expressly from India for this purpose. At Bahrain, in East Arabia, the best lances were manufactured. They had an iron point, sharp and slender at the end, so that they could be fixed into the ground; not unlike those of the Beduins which have remained precisely the same from time immemorial. They also used short spears which were slung. With such a weapon did Wahshi, in the battle of Ohod, kill Hamza, the uncle of the

* [Waffen der Alten Araber by Schwarzlose, Leipzig, 1886. Tr.]
† Hamasa, 779.
‡ Ibn Awwam in the Kitab-ul-Falaha, II, 690. Madrid Edition.

Prophet and with a similar instrument, later, did he kill, the false prophet Musailama.*

Even, in ancient Arabian Poetry, swords of Indian manufacture, are very highly spoken of.

Those, in general use, however, were of inferior quality and indifferent workmanship. The South Arabian blades were specially prized and regard being had to the degree to which that industry was developed in Yaman; we might reasonably conclude, that they were of considerably superior make to those of other parts of Arabia. Swords were also manufactured at the Syrian frontier-town of Muta. Highly esteemed especially were the Damascane swords—easily distinguishable by their wave-like form. This weapon they carried in a scabbard flung over the right shoulder. The scabbard was generally made of wood with metal casing, and, as is still common in the East, they put good swords into a leather casing and then into a scabbard.

The helmets were partly made of leather and partly of metal. The face as well as the neck was covered with a visor and a net-work of iron-rings, of the same make as the armour, which, owing to its high price, was very rarely used. The iron helmets were made of rings similar to the coats-of-mail, worn by the Saracens, at the time of the Crusades. Those made of leather were mostly

* Nawawy, Tahdhib, 344.

studded with metal plates—the best of which came from South Arabia. The real national weapons of the Arabs were the bow and the lance which they fondly called the Arab bow and the Arab lance. The bows were made of elastic wood, were well-bent and were strung with a tendon. These were of different qualities. Certain Arab tribes enjoyed special reputation for archery. To protect it from the recoil of the tendon the finger was covered with a piece of leather. They used long arrows made of reed, feathered below, terminating in a broad iron point. They carried them in a quiver. The range of a good bow was estimated at a 100 cubits.*

The division of the army into centre, two wings, a vanguard, a rear-guard, was already known and was actually put into practice at the time of the Prophet. Cavalry covered the wings and the archers even then formed a separate corps.† *Khamis* was the term used for describing these five divisions of the army.‡ Every tribe had its standard round which it gathered. It consisted of a piece of cloth attached to a lance. In the battle of Badr Muslims had three banners (liwa). The Muhajir bore the great standard of the Prophet. Each of the tribe of Aus and Khazraj—devoted to the Prophet—had its own

* Ibn Awwam, 534, Ch. 32.

† *Cf.* Battle of Ohod. Sprenger, Moh III, 171

‡ 'Khamis' means five limbs.

banner.* The Quraishites also had three of these. The most distinguished and the bravest of warriors were always selected as standard bearers.† The great banner of the Prophet was called *uqab*, *i.e.*, the eagle; presumably in imitation of the Roman standard. It is said to have been of black colour and Khalid Ibn Walid had it borne before him in his Syrian campaigns.‡ Even in the early times the Arabs were familiar with the war machines—the use of which they had learnt from the Persians and the Greeks and which, in later times, they very considerably improved.§

We cannot but marvel at the astounding successes, attending the insignificant army (reports from various sources herein agree) sent out from Medina for the conquest of the neighbouring countries of the Byzantine and Persian Empire.

But we must not forget the fact that Islam had instilled, in the early undisciplined bands, a spirit of absolute, unquestioning obedience which alone rendered them a hundred times superior to the Greek and Persian mercenaries. Besides, among their own countrymen, residing since remote antiquity in Syria and Iraq, they found secret

* Waqidi, 53.
† Ibn Asakir, M.S.
‡ Ibn Asakir, M.S.
§ Freytag Einleitung in d. Studium der Arab. Sprache, 261.

as well as open allies.* By reason of tribal sympathy or racial hatred they rendered assistance to the conquering army. They acted as spies and not infrequently fought with their tribesmen in open warfare. Similar services were rendered by the discontented Copts in Egypt.

To form a correct idea of the method of warfare of those times, it will not be without profit, to describe here, somewhat in detail, the earliest military expeditions against Syria which began under the first Caliphs and which in a few years resulted in the conquest of that country.†

The first great expedition to the North which took place directly after the accession of Abu Bakr was that which started under Usama Ibn Zaid.‡

Shortly before his death the Prophet had summoned all men, capable of bearing arms in Medina, to take part in an expedition to capture an oil caravan.§ After his death people were disinclined to send out the expedition but in spite of the dissuasion of the most influential men of Medina and in spite of the fact that the greater portion of Arabia was still in a state of insurrection Abu Bakr despatched the expedition under the leadership of Usama holding that an order,

* [Les Arabes En Syria by Rene Dussaud. Paris. 1997. Tr.]

† Ibn Asakir's History of Damascus. Ms.

‡ [Khuda Bukhsh. Islamic Peoples. 49. Tr.]

§ Ibn Asakir, Ms. Fol. 44.

issued by the Prophet, must be obeyed at all costs and under all circumstances. Usama, accordingly, started. His troops consisted of 3,000 strong, of whom a third constituted the cavalry.* By forced marches he passed through the territory of the Juhaina Beduins, situated to the north of Medina and that of the great Kod'a tribes who had remained true to Islam. On reaching Wadi-ul-Qur'a he sent out a scout, a Beduin of the 'Udra tribe, who proceeded on a fleet camel to Obna (Jobna) to reconnoitre.† He returned and reported that the inhabitants of the village were careless and without any resources and he counselled a swift attack before the countryfolk had had time to collect. When Usama arrived in the vicinity of the village he arranged his troops and addressed them as follows: Now deliver the attack but beware of pursuing the fugitives. Disperse not but persist in the onset and invoke God's assistance. Unsheathe the sword and hew down whatever opposes you. Upon this he gave the signal for attack and before a dog had yelped, the Muslims rushed with their battle-cry: O Victors, slay! Those of the inhabitants who opposed them, were cut down. The defenceless were taken captives. The dwelling houses, barns and fields were set fire to and pillars of smoke, like heavy banks of cloud, rose and the cries of the wounded rent the air.

* Ibn Askir, Fol. 46. Tradition of Waqidi from Urwa.

† Obna lies on the northern border of Arabia towards Syria.

The Muslims did not care to pursue the fugitives, but captured those whom they found. Only for the day they halted there to take rest and to divide the booty. At this expedition Usama rode on a horse, named Sabha, on which his father, in the battle of Muta, had met with his death. And, forsooth, on that very horse did Usama chase and kill the murderer of his father. Of the booty he assigned two shares to every horse and one to every horseman; so that the horseman, along with the horse, obtained three times the share of the foot-soldier.* In the evening of the same day he gave orders to start and under the guidance of the 'Udra Beduin forthwith returned by the same route. He reached home by forced marches and after seven nights he arrived at Wadi-ul-Qur'a and from there to Medina without casualty to a single individual.†

The picture, which this account sets before us, shows us that the first Muslim expeditions, in foreign countries, were simple razzias in which ostensibly for the greater glory of God and his Prophet, they attacked defenceless settlements robbing and murdering the inhabitants.

The Muslim warriors of those times were at once greedy free booters and pious enthusiasts, the latter always less than the former.

* Yaqut informs us, upon the authority of Kitab-ul-Amwal of Abu Ubaid Kasim Ibn Sullam, that in the division of the booty the cavalry obtained three shares while the foot-soldiers only one. Mujam, I, 47.

† Ibn Asakir, Fol. 40. Tradition of Waqidi from Mundhir Ibn Jahm.

The descriptions of the Arab historians, who do not find adequate language to praise the pious zeal of those religious wars, are considerably overdrawn. Love of booty and prospect of paradise acted as the most seductive inducements, the former, in all probability more, than the latter. Arab predatory expeditions are precisely the same now as was the expedition of Usama against Obna. Nothing has changed—neither the physical aspect of the country nor the national costume either. When an Arab tribe of the great desert starts on an expedition into a settled district; it proceeds cautiously at night, seeking for valleys and low-lying grounds; rests during the day, in some secluded valley, where it is sure of remaining undetected; it then advances in the neighbourhood of the settlement and attacks it at the first break of dawn when perfect stillness prevails. It takes advantage of the first alarm to plunder as much as possible, disappearing as quickly as it came, leaving behind only smoking ruins and aching desolation as evidences of its amiable visit.

For such expeditions the Syrian and the Persian borders were admirably suited since the desert, the natural home of the Arab hordes, extends deep into the settled districts and everywhere alike offers favourable places of attack and retreat.

Instead of fighting their powerful kinsmen, the population of the frontier towns, who were

in the pay either of the Byzantine or Persian Empire, found it much more to their advantage, to make common cause with them, to accept Islam, to join them in plunder and to share with them the booty and to receive, at the same time, the annuity which was remitted to them from Medina immediately on their conversion to Islam. Thus it was that a comparatively small army which penetrated Syria and Iraq, quickly grew, like an avalanche, and crushed down all obstacles that stood in its way.

The first body of troops which Abu Bakr despatched after the expedition of Usama, was that under Amr Ibn 'As. It consisted of 3,000 men among whom were a great many Ansars and Muhajirin. The Caliph commanded that Amr should take the road to Aila (the modern Akaba) and call upon the Kod'a tribes, as also the Bali and Udra Beduins who dwelt *en route* to join him. The Caliph, at the same time, appointed the Commander of the troops also Governor over those tribes.* In obedience to the order of the Caliph Amr took the route marked out for him. The three other generals: Yazid Ibn Abi Sufyan, Abu Ubaïda Ibn Jarrah, and Shurabil Ibn Hasna were directed to take the road across Tabukiyya to the Syrian Province of Balka which

* Ibn Asakir, Tradition of Mohamed Ibn Sa'd.

was to be made the base of operation for attacks upon the proper Byzantine territory.* To each of these four generals a Syrian province was assigned: to the first Filistin (Palestine); to the second Damascus; to the third Hims; to the fourth Urdun. All these four divisions of the troops were to meet at an appointed spot and that was Yarmuk, on the upper Jordan, where they, subsequently, fought the great decisive battle against the Greeks. The entire strength of the four corps was 27,000 men. To them was added 3,000 men, the last remnant of a corps which under Khalid Ibn Sa'id was defeated by the Greeks apparently while on a reconnoitering expedition. To the Syrian army, somewhat later, came a further re-inforcement from Iraq of 1,000 auxiliaries under Khalid Ibn Walid and later still yet another re-inforcement of 6,000 men. On the whole the numerical strength of the troops was 46,000 men.† According to another report the number of the troops sent out for the conquest of Syria is stated to be 24,000, *i.e.*, 6,000 each corps.‡ Khalid Ibn Walid is said to have led only 6,000 auxiliaries from Syria into Iraq. And yet we find the number of the Muslim troops, that

* Under the Emperor Trajan, Tabuk was the Roman frontier against Arabia.

Z. D. M. G., XXV, 562.

† Ibn Asakir, Tradition of Saif Ibn Omar.

‡ Ibn Asakir, Tradition of Ibn 'Aid.

fought in the battle of Yarmuk, rising to 70,000 men,—of whom the tribe of Yazd only constituted one-third.* That the army which fought the Persians in Iraq was not very numerous either, is clear from the fact that when Khalid proceeded from there to Syria with the half of his army he took only 10,000 with him, while as many remained behind.† We see, from what has preceded, that the original number of the troops had been considerably increased—almost doubled. Reinforcement from Arabia and junction of the Syrio-Arabian tribes fully explain this phenomenon.

Accepting the above figures as the basis of our calculation we can safely fix the number of the Arab troops as between 60, to 70,000 in Syria and Iraq· But we should not forget that among these were included an extremely numerous retinue of women, children, slaves and clients for the majority of the tribes, taking part in these wars, had their family with them in the field.‡

Even in this movement Omar sought to introduce some system and method. When Jerusalem fell and the conquest of Syria was well-nigh completed Omar personally went there to divide the booty. He proceeded as far as Jerusalem, or

* Ibn Asakir observes that they carried their swords in palmbasts instead of scabbards.

† Ibn Asakir, Tradition of Ibn Aid.

‡ Ibn Asakir. Gesch. d. herrschenden Ideen des Islams, 458, note 5.

according to others, as far as Jabiyyah, a village near Damascus. This was in A. H. 16. As the oldest authority tells us he organized the troops and established permanent military stations.* By this is to be understood that he divided the troops in fixed corps of particular tribes and he assigned a particular station to each portion of the army. These in Syria were: Hims, Damascus, Urdun, Filistin. The first two were garrison towns; for Urdun, Tiberias was the military station; for Palestine, at first was Lydda (Lodd) and subsequently Ramla.†

In Iraq, precisely in the same way, arose permanent military stations; namely, Kufa and Basra. At first the soldiers built for themselves barracks of reed where they resided with their families; mere temporary constructions, which they pulled down on their departure. But these reed huts soon gave place to houses of clay bricks and thus arose the two towns which, for a long time, remained exclusively military stations.‡ They were also called Al-misran, *i.e.*, the two cantonments, since in case of emergency it was

* Ibn Asakir.

† Yaqubi, 116.

‡ On the foundation of Basra. Beladhuri, 346. It was founded in A. H. 14. Kufa came into existence later about 14 A. H. or 17 A. H. Beladhuri, 275. Ibn Athir, II, 410, 411. Masudi, IV, 225. Basra was divided into five quarters according to the five tribes which had settled there. These were: Azd, Tamim, Bakr, Abdul Qais and the Medinites. Ibn Athir, V, 53.

from them that the Caliph could draw upon a large supply of troops.

To lead the troops a commander was appointed by the Caliph, but our information for the times of the first four Caliphs on this point is vague and fragmentary.

We know this, however, that for the control of every tribe a government official was appointed who bore the title of 'Arif' and who superintended the affairs of the tribe. Thus it is stated in an old report: he was then the Arif of the tribe of Mazin—for the inhabitants of the town as also for those of the desert.*

This institution was very considerably improved upon later for even in the army an Arif was appointed over every group of ten. The duty of this officer corresponded to that of the Roman Decurion and very probably this office was adopted, at the time of the Omayyads, from the Byzantines, when the Arabs accepted and assimilated the Roman system of warfare. These Subordinate officers appear to have had the charge of supervising the men, maintaining discipline and reporting those who shirked military service.† This fact indicates that neglect of

* Aghani. II, 186. Sharh-ul-Muatta where, in a tradition, a case is cited from which it appears that the Caliph Omar received information regarding the character of a man from the Arif. The commentator adds: Arif is one who is conversant with the affairs of the people and who, on that account, can furnish information to his superior officer.

† Ibn Athir, IV, 18, 19

military service was at that time punishable. Omar and Othman caused the offender to be punished by removing his *Turban* and placing him in the pillory. Degrading as it was, this punishment was found inadequate, and still severer measures had to be adopted,—a clear proof of the weakening of the sense of honour and the growing horror of military service. In addition to the removal of the *Turban* and the use of the pillory, Musab caused the head and beard of the offender to be shaved. Bishr Ibn Merwan increased the severity of the punishment still further by having the hands nailed; while Hajjaj, the energetic Governor in Iraq, took the shortest possible route, having all such offenders beheaded.*

From the authorities it appears that the appointment of Subordinate officers lay with the Commander-in-Chief whom alone the Caliph appointed. We should not, of course, expect in those times, a severe, methodical division of the troops. The Commander-in-Chief was, to all intents and purposes, the representative of the Caliph. He exercised by way of delegation, the most important function of Islamic sovereignty; namely, the leadership of the five daily prayers. Hence, wherever several body of troops met, it was carefully stated which of the generals was to conduct the divine service. The

* Ibn Athir, IV, 308.

leader of the prayer was usually the Commander-in-Chief. It need not specially be mentioned that the method of warfare of the earliest Arab army was of a very primitive character. The order of battle was in lines or rows.

Mohamed required the very same rigour and severity of arrangement on the battle field as he exacted from the faithful, at the common prayer. As in the mosque, so on the field, they stood in close and compact array. According to the oldest and the best report, the account of the battle at Badr, shows the close and compact array in which the Prophet marshalled the Muslims: indeed, so close and compact was the line of battle that not the smallest space remained unoccupied. No less did he rely on their sense of honour. The warriors indeed protected themselves by shields, and Mohamed commanded them not to unsheath their swords until the enemy was at close quarters.* The battle almost always began with single combats of distinguished warriors who stepped out of the ranks and challenged by song opponents of equal birth to meet and fight them.

Thus, before the battle of Badr,† the Mekkans, through their messenger, invited Mohamed to send some heroes of noble birth to meet them. Mohamed answered the summons by selecting

* Waqidi. 51, 62, 63.

† [Muir, Life of Mohamed III, 103. Tr.]

three representatives of his own family: Ali, Hamza and Ubaida Ibn Harith. As soon as they advanced, three noble Mekkans, Utba, Sahiba and Walid,—came forward to meet them. But as the representatives of the Prophet were in full armour—their faces being covered by helmets—the Mekkans called out: "Are ye of equal birth with us?" Hamza answered: I am the Lion of God and his Prophet. To him replied Utba, on behalf of the Mekkans: "Thou art noble born and a worthy foe, and I am the Lion of the Halif, but who are the other two with thee?" Hamza replied: "Ali, the son of Abu Talib and Ubaida, the son of Harith."* "Indeed," replied Utba, "these two also are meet foes." Thereupon the single combat began.† A great number of the martial songs, sung by way of challenge and defiance, have come down to us. Some, indeed, are genuine and bear the unmistakable impress of those times. Thus sang Asim, at the battle of Ohod:

The arrow and the bow frighten me not—a well-worn hero am I.

From my shield the missiles rebound.

Death alone is certain, life is an empty show;

What the Lord has ordained—that must surely come to pass

And to Him must we all return.

If I fight not, may my mother be childless.‡

* [On Ubaida, see Muir, II, 110 and III, 70. Tr.]

† Waqidi, 63 [Muir, III, 104. Tr.]

‡ Waqidi, 346.

When Mohamed besieged the Jewish settlement at Khaibar, the Jewish troops made a sortie, under the leadership of one of their best warriors, called Mahrab. On the occasion of this attack Mahrab sang thus :

> Khaibar knows that I am Mahrab, full-armed, undaunted, experienced in war.
>
> Effective am I when I smite with sword or thrust with a spear.*

It was only after a series of such single combats, when both the contending armies had grown more and more fierce, that the general attack at close quarters followed.

As a natural result of this mode of warfare, neither of the contending forces suffered very heavy losses.

At the battle of Badr the total loss of the Muslims was 14 out of 303; of the Mekkans only 70 were left dead on the field and an equal number taken prisoner. At Ohod, where the Mekkans were victorious, the Muslims lost 75 out of 700 and the Mekkans only 23 out of 3,000 men. In the wars against the Greeks and the Persians the losses were far heavier. Wherever the Arabs won, the carnage in the beaten army was fearful. Both the Greeks and the Persians were very slow of mobilisation. Their troops, when once broken through, could not rally again and their losses,

* Waqidi, 390.

through sheer confusion and excitement, were quite as many as those due to the sword of the victors.

The Arabian reports tell us that in the battle of Wakusa, which is the same as Yarmuk, the Greeks made their line of troops inseverable by binding the soldiers one to another with chains.*

The same is reported of the Persian troops; and hence this memorable battle received the name of the battle of Chains. We can easily imagine what would happen in case of defeat. The Persian army, even in Iraq, had war elephants with it which could do but little harm to the mobile Arabs but which, once frightened or wounded, did the most terrible havoc in their own ranks.

Above everything else, the strength of the Arab army lay in its superior moral tone, in its powers of perseverance, endurance and remarkable mobility. A defeat could never be so very fateful to them; in the event of such a catastrophe, the desert was their refuge and recruiting-ground where they quickly prepared themselves for a fresh encounter.

Their wars were offensive wars; while those of their opponents were unmethodical, unsystematic wars of defence. The very nature of the thing explains their amazing successes.

* Compare Von Kremer: Mittelsyri'en und Damascus, p. 10.

For the security and maintenance of the conquered countries the Muslims established all over their empire permanent military stations where the Arabian troops were quartered according to their tribes and whence they were summoned in times of need.

In Iraq such garrison towns were Basra and Kufa; in Syria, Damascus, Hims, Tiberias, and Lydda. In Egypt, the conqueror of the country, Amr Ibn As, established a permanent camp at old Babylon, the so-called Roman fortification opposite to Memphis, where presumably, even at the time of the Romans, a strong garrison was stationed.

Out of this camp, later on, grew up a town which bore the name of Fustat and which remained, until the foundation of Cairo, the Capital of the whole country. After the foundation of Cairo, Fustat continued its existence under the name of old Cairo; but it was gradually annexed to the new Cairo by unbroken and continuous settlement.

Next to Fustat, Alexandria was the most important rendezvous for the troops in Egypt. As the greatest sea town, it was constantly exposed to the attacks of the Greek navy. It was precisely for that reason that it was strongly garrisoned. Amr posted there one quarter of his army, but he changed the personnel every six months; with two-fourths he guarded the sea-coast, while the remaining quarter he kept with

himself at Fustat. According to other reports Amr is said to have annually relieved the garrison of Alexandria from Medina. Even Othman followed the same system and removed the troops twice a year from this town. We are in possession of information regarding the strength of the garrison at the time of the Omayyads. Muawiya found 12,000 too small a force and consequently strengthened it to 27,000.*

The garrison at Alexandria was essentially different from those of the other great Military Camps. Here the troops, arranged according to tribes, resided with their family in barracks—every tribe having its own quarter and its own mosque.†

To complete our portrait of the earliest military organisation of the Arab Empire we should trace the subsequent history of the institutions under Othman and Ali—institutions called into being by the organising genius of Omar. But we lack materials and we will, therefore, proceed to complete the sketch of Omar's administrative measures. The achievements of the last two Caliphs of the Patriarchal epoch fade away into obscurity by the side of the great statesmanlike creations of Omar. To him alone does Islam owe its political institutions

* Suyuti, Husnul Muhadhera, I, 75.

† Masudi, V, 130.

and the main outline of its Administrative System which have continued to be the model of the political life of the Muslims for all times.

The administrative division of the Empire was partly settled by the first Caliph. Under him existed the following Governorships. Syria was divided into four military districts (Damascus, Hims, Urdun, Filistin). In each district the Officer commanding the troops was invested with the powers of a Governor. But, as a whole, Syria stood under the control and supervision of the Commander-in-Chief of the entire army who collected the taxes.

In Arabia the Governors had their seat at Mekka, Ta'if (in North Arabia), San'a, Zabid, Janad and Jorash (in South Arabia). Governors resided also in the provinces of Khaulan, Najran and Bahrain. Finally a Governor was appointed at Dumat-ul-Jandal, which lay on the great commercial route to Syria and Iraq and was an important centre of concourse.*

It is obvious that Abu Bakr very carefully watched the interests of South Arabia. While, in later times, only one Governor sufficed for the whole of Yaman, Abu Bakr appointed Governors for all the larger towns.

Moreover there was a Governor, appointed

* Ibn Athir, II, 323.

by Mohamed, for Taima, Khaibar and the villages belonging to it.*

In consequence of the victorious campaigns under Omar—the circle of governorships was enlarged.

The conqueror of Egypt was appointed Governor of Egypt. In Damascus Muawiya was given that appointment—the very same Muawiya who, later, became the first Caliph of the House of Omayya.

Besides, in Syria, a second governorship was created for Hims. Iraq was divided into two governorships: one having its seat in Kufa and the other at Basra. In Arabia, the number of governorships was reduced to five: Mekka, Taif, Janad, San'a, Bahrain.† In Egypt Omar appointed a special Governor for Upper-Egypt.‡ He even restricted the powers of the Governor

* Usud-ul-Ghabah, under Khalid Ibn Sa'id. The Prophet sent him as Collector of poor-tax to Yaman and according to others as Collector of poor-tax for the Madhij-tribe and appointed him, at the same time, Governor of San'a. When the Prophet died, Khalid held this post and so did his two brothers—Amr and Aban. They too were appointed Governors by the Prophet. After his death they returned home. Abu Bakr enquired why they had left their posts and required them to return and rejoin. But they replied: We are men of the tribe of Uhaiha and we would serve no other master than the Prophet. Khalid was the Governor of Yaman; Aban of Bahrain and Amr of Taima, Khaibar and the villages belonging to it.

† Camp. Ibn Athir, III, 60. Jala Ibn Munja was the Governor of San'a. Under Abu Bakr he held the Governorship of Khaulan. He must have amassed great wealth for he was reckoned as the richest man of his time.

‡ Suyuti, Husnul Muhadhera, II. p. 3.

of Damascus; for, while formerly the Governor was not merely the Chief Commander of the troops but was also at the head of the Government exercising all the religious and judicial functions of the Caliph—such as administration of justice, and leadership at the public prayer, Omar appointed for Damascus and Urdun a special Kadhi (Judge) to whom he entrusted the performance of religious functions and leadership of the prayers. Similarly he appointed a Judge for Hims and Kinnisrin.*

At Medina the Caliph personally administered justice. Despite nominal restrictions and limitations, the powers of the Governors were in fact well-nigh unlimited and they knew how to fill their purses.

On the death of Omar, when Othman succeeded to the Caliphate, he wanted to reduce the absolute powers of the Governor of Egypt by withdrawing from his jurisdiction the collection of taxes. He wished to limit his jurisdiction to Military affairs and Political administration. For the collection of taxes he appointed a special officer. Against this arrangement Amr entered a most emphatic protest. He quite openly declared that in that case he would be in the position of a man who

* Abu Darda was the Judge of Damascus and Ubada was that of Hims. Beladhuri, 141. [For further information, see Sachau, Zur Altesten Geschichte des Muhammedanischen Rechts. Tr.]

held the horns of a cow while another milked it.*

Even Omar had continuously to press for the payment of taxes, for the governor of Egypt was invariably in arrears.† But it was very natural that the famous general, belonging to one of the noblest of the Mekkan families and acquiring an incontestable position by the conquest of Egypt, should be treated with consideration.

For Mesopotamia, conquered in the last years of his Caliphate, Omar made a special arrangement. He appointed two Governors: one in charge of military officers and the subject races and the other in charge of the Arabs.‡

To ensure a conscientious discharge of duties and to put an end to malpractices Omar assigned fixed salaries to Governors and other officers. To Ammar Ibn Yasir, whom he appointed Governor of Kufa, he assigned a monthly salary of 600 Dirhams—besides the pay of his subordinates and daily rations of mutton and wheat. Two officers accompanied Ammar; namely, Othman Ibn Hunaif and Ibn Masud. Besides his annuity, which amounted to 500 Dirhams, Othman received 5 Dirhams a day and a fixed ration of mutton. Ibn Masud received 100 Dirhams a month and his ration.

* Suyuti, Husnul Muhadhera, I, 76.

† *Ibid*, p. 70.

‡ Ibn Athir, II, 415.

When he appointed Kadhi Shuraih Judge of Kufa Omar assigned to him a salary of 100 Dirhams a month and 10 jarib of wheat. Ammar was invested with greater powers than the others, since he was entrusted at the same time with the leadership of the prayers.* Omar also appointed a Judge† for Basra. It appears that at the outset he appointed Judges only for the great military stations such as Basra, Kufa, Damascus and presumably also Fustat.

By assigning salaries to officers and appointing Judges Omar established a stable Government and laid the foundation of administration of justice which, however imperfect and defective, was yet a great advance upon the earlier times.

We have already referred to one of the most important measures of Omar; namely, the survey of Babylon (Sawad) for the purpose of an equitable taxation. We will now go into this subject more fully.

Omar ordered Othman Ibn Hunaif to survey the whole country. Othman Ibn Hunaif undertook the task and fixed the area of the entire cultivated land at 36 million Jaribs. Jarib was an old Babylonian Square measure which is said to correspond to 3,600 square yards, the ordinary Arab yard measuring 24 inches and corresponding

* Beladhuri, 269.
† Ibn 'Athir, III, 60.

to the Roman cubitus. In order to get an idea of these numerical proportions we shall assume the yard to be equal to the foot. Upon this calculation a jarib would be equal to the Roman Klima of 3,600 Roman feet. This Roman square measure, like jarib, was based upon the old Babylonian duodecimal system. The yard by which the survey was effected was exceptionally long and therefore favourable to the tax-payer. It was the usual Arab hand-yard of 24 inches* to which was added the fist with the thumb out-stretched.

The Roman cubitus, which also consisted of 24 inches, was equal to 4,436 metres; the fist (Arabic Kabdha, Latin Palmus) was one-sixth of it, *i.e.*, ·0739 metres. It is difficult to fix the length of an out-stretched thumb, but we may take it roughly to measure 3 finger-breadths (one finger breadth being ·0184 metre, *i.e.*, ·0552 metre Accordingly the length of the yard employed in the Survey of Sawad corresponded to 31 finger breadths or approximately ·57 metre.

The jarib consisted of 60 yards of the kind mentioned; a square therefore counted 60 × 60 = 3,600 square yards. As one yard was ·57 metre long, sixty yards were (·57 × 60) = 34·2 metres. A jarib, therefore, had an area of (34·2 × 34·2) 1169·64 square metres.

* Beladhuri, 272.

The survey showed the whole country to contain 36 million Jaribs—a statement which looks very suspicious indeed on account of the recurring number 36 and which, in any event, can hardly be considered as of any practical value.

It was on the basis of this survey that the tax, payable by the various plots of land, was assessed and fixed.

There was a formal register of assessment which recorded minutely not only the area but also the quality of the soil.

It has already been pointed out that Omar tried by reducing the (custom duties), to promote the import of certain kinds of cereals which Arabia did not produce in sufficient quantities but of which the two rapidly growing towns of Mekka and Medina stood in pressing need to meet the requirements of the ever-increasing population. It was he who carried through a measure of a still more far-reaching importance; a measure which points to his clear judgment and far-seeing vision.

He opened the Suez Canal in order to establish a direct connection between the Nile and the Red Sea. The reason for this step probably was the great famine which raged in Arabia in 18 A. H. (639 A.D.) and the terrible epidemic which devastated Syria about the same time. The Governor of Egypt was commanded by the Caliph to excavate once more the old Canal which branched off at Babylon (called now 'Old Cairo'),

cut through Cairo, under the name of Khaliji, and fell into the Red Sea near Klysma. This waterway, which the Arabs called 'the Canal of the Prince of the Faithful' was completed within less than a year; and on it the Nile barks sailed into the Red Sea as far as Janbo and Godda with the result that the prices of grain fell immediately in the markets of Mekka and Medina and hardly cost more than what people had to pay in Egypt.

A far less righteous feeling inspired the Caliph when he ordered the general expulsion of all non-Muslims from Arabia. Henceforward Arabia was no longer to be desecrated by the footsteps of an infidel.* This policy is traced back to a saying of the Prophet of very doubtful genuineness according to the canons of Arab criticism, which runs thus: "two religions should not exist, side by side, in the Arabian Peninsula."†

On the strength of this tradition Omar is said to have expelled the rich and industrious Jews from Khaibar; as also the Christian and Jewish

* [Weil's Mohammed, 280. Prof. Shibli's Omar II, 179, T.]

† Bukhari gives a similar tradition on the authority of Ibn Abbas who related that immediately before his death the Prophet expressed three warnings: the first was, drive the infidels away from the Arabian Peninsula; the second was, make presents to the ambassadors in the same way as I have done. The third one the narrator forgot. By way of explanation it is added that the expression 'Island of the Arabs' means: Mekka, Medina, Yamama and Yaman. East Arabia remained outside this limit though many Persians resided there.

population from Najran and Fadak. To the Jews of Khaibar he allowed no compensation, but to the Jews and Christians of Najran and Fadak he allowed half the value of their harvest and the full price of their land (Sharh-ul-Muatta, IV, 72, 73). Improper conduct of the inhabitants of Khaibar towards one of the sons of the Caliph is said to have been the reason for the decision referred to. (Ibn Athir, II, 169, 171). To the Jews Omar allotted Jericho and Taima as their residence. Even the Christians had, in a body, to leave Arabia (Bukhari). The majority of the Arab Christians belonged to the district of Najran which was noted for its flourishing industry. Mohamed had allowed them special privileges which Abu Bakr had confirmed. They had to pay annual tribute in pieces of cloth of their own manufacture, coats of mail, utensils and horses.* As against this annual tribute they enjoyed the right of freedom of worship. Despite the conscientious and punctual discharge of their obligations Omar ordered their expulsion and assigned to them new quarters in the neighbourhood of Kufa. A portion went to Syria. Omar declared the land left by the Najranites as crown lands. Like Sawad, it was declared, for all times, as the inalienable property of the Muslim Community.

* Sprenger, III, 502.

Here too Omar put into practice the very principle we have referred to earlier. In any event it is singular that he should have set aside, at one stroke, a right, so well secured, as that of the Christians of Najran; for they had their charter from Mohamed and Abu Bakr. There must have been strong reasons for the adoption of such a course. We can, indeed, guess them with more or less certainty.

It was the same idea which lay at the basis of the rule excluding Muslims from acquiring landed property or carrying on agricultural pursuits;—the idea of keeping his nation pure and unmixed, a nation professing but one faith, a martial race, a race of warriors pure and simple.* Arabia was to be the citadel of Islam and none but the faithful were to dwell there. To use a modern expression, we must describe the policy of Omar as a purely national Arab policy. For him there was only one people called upon to rule, and that was the Arabs. All others were to serve and toil—to be none other than subject races. This is the key to the whole policy of Omar. This accounts for the prohibition to Muslims to use a foreign language and the corresponding prohibition to the Christians to learn the Arabic language or use the Arabic script.†

* Sprenger, III, 505. Compare Mikshkat-ul-Masabih, II, 298, Tr.
† Ibn Khaldun, Proleg. II, 316.

Very clearly does this idea appear in the document wherein the Christians lay down the terms of their surrender and submission to the Muslim rule;—terms which Omar expressly confirmed. It runs: In the name of God, the merciful and compassionate. This is a document addressed to Omar Ibn Khattab, Prince of the faithful, by the Christians of the town N. N. When you entered this land we asked you to afford security to us and our families, our properties and our brothers-in-faith. And you acceded to our prayer on condition that we did not build afresh in our towns or in their neighbourhood a cloister or a church, a monastery or a hermitage or restore or reconstruct those that had fallen into ruins in the Muslim quarter of the town; that we did not prevent Muslims from occupying our churches for three nights (indeed we would entertain them at our cost for three nights); that we did not harbour spies in our churches or our dwelling-houses, or receive enemies of the Muslims; that we did not instruct our children in reading; that we did not openly practise idolatry or induce people to adopt idolatrous practices; furthermore, that we did not dissuade any of our relatives from accepting Islam if so minded; that we did not wear caps, *Turbans* or sandals similar to those used by Muslims, or part our hair like them; that we did not talk in their language or assume their names, or use saddles for riding, or carrying swords, or purchase weapons

or carry them about us, or have Arabic inscriptions inscribed upon our rings, or sell wine; that we would cut off our forelock, keep to our costume and that, wherever we were, we would wear a belt round our waist; that we would not set up a cross on our churches; that we would not hawk about our books in the streets frequented by Muslims or in their *Bazars* either; that we would slowly toll the bell in our churches; that at our prayers we would not raise our voices too high; that in the public procession on Easter day we would not carry palm leaves or idols; that we would not perform the funeral service loudly nor carry a light with the funeral procession in the streets and Bazars inhabited by Muslims; that we would not buy slaves which were in the possession of the Muslims nor pry into their secrets.

When Omar read this document he added with his own hand: that we would not strike Muslims, that we undertake to observe these terms for ourselves and our brothers-in-faith, and, in return, accept security of person and property. Should we violate any of the terms which we have promised to observe;—the protection may be withdrawn and you will be at liberty to deal with us as you please.*

This document describes to us the terms of submission of the Syrian Christians as they were

* Ibn Asakir, 87, 88. *Cf.* A similar document in Amari: Storia dei Musulmani della Sicilia I, 477 note.

dictated by Omar or possibly as they had been formulated before him by Abu Bakr. The Caliph simply approved the terms and by his approval conferred upon them the binding character of a treaty. From this it is obvious that the victorious Muslims had no intention whatever of assimilating or absorbing the subject races, but that they aimed rather at drawing the line as clearly and sharply as possible between the believer and the unbeliever, and strove to keep the two severely separate and apart. The maxim Omar set up, that "no Arab could be a slave" was quite in conformity with the great political principles inaugurated by him.* The Arab, according to Omar, was *ipso facto* free. Only a foreigner could and should be a slave. In his eyes the Arabs were a chosen people, summoned to rule the world. He could not conceive the subjection of the Arabs to any foreign or external power, —the subjection either of the individual or of any portion of his people, however small or limited. On the conquest of the upper Mesopotamea a small tribe, consisting of some 4,000 souls, professing Christianity, fled to the Roman territory. Omar, thereupon, wrote to the Greek Emperor: An Arab tribe has forsaken my territory and fled to thine. I swear by God that if thou dost not deliver them to me, I

* Aghani, IX, 79, 80.

shall expel every Christian from my territory to thine. The Greeks did not hesitate to send back the fugitives, and Omar distributed them in the adjoining provinces of Mesopotamea and Syria.*

In his care for the Arab nationality Omar went even to the length of granting more favourable terms, as regards payment of taxes, to genuine Arabs than to those of foreign origin. When Iraq was conquered, the Christian Arab tribe of Taghlib-Beduins refused to accept Islam, but their genuine Arab instincts revolted against paying the Capitation tax like foreigners.† They threatened to emigrate to Greek territory rather than submit to a degrading treatment. Omar, therefore, made an exception in their case, and merely levied upon them double the amount of the poor-tax payable by Muslims on condition that they no longer baptised their children as Christians.‡ The whole of the Rabiya tribe, however, of whom the Thaglabides were a branch, remained loyal to the Christian faith till the second century of the Hegira.

* Ibn Athir, II, 415.

† On the Christian Rabia-Beduins. See Aghani, XX, 127 and Iqd of Ibn Abd-Rabbih where it is said : the home of the Rabia tribe is on the banks of the Khabur river. They are, for the most part, Christians or Kharijites. Much less firm and compact were the tribes of Southern and Eastern Syria; Lakham, Judam, Balkain, Baly, Amila, Ghassan, pure Kudaites, who fought the Muslims in the beginning but accepted Islam after the first great victory.

‡ Beladhuri, 182.

Even the Arab tribes professing Christianity joined the Muslims in the war against the Persians. Love of booty may have influenced them as much as the idea of nationality, which, indeed, was too powerful a factor to be weakened or destroyed merely by religious differences.*

With the accession of Othman, the third Caliph, there came to the helm of the state a party which pursued quite a different goal. The new Caliph, who owed his election to no other circumstance than his seniority (for after Omar he was the oldest living member of the family of the Prophet and was indeed his son-in-law), enjoyed the inestimable advantage of belonging to the House of Omayya—famous even in the days of Heathenism and conspicuous by its position and importance. It is very probable that for that very reason Mohamed was pleased to have him as his son-in-law, since thereby he was allied by marriage with one of the old patrician families of the town of his birth.

Othman followed his father-in-law in his banishment to Medina; but he was weak, vain and fond of show, and was entirely under the influence of his Mekkan kinsmen, who accepted Islam only, when driven to extremities, and even then inwardly retained their affection and allegiance to the ideas and traditions of Arab

* Ibn Athir. II. 339. This Christian tribe was the tribe of Banu Nimr.

heathenism. Othman, therefore, was much fonder of the Quraish and specially the Mekkan party than were his stern, puritanical predecessors. Othman connived at the faults of his relatives and enriched them in every possible way; he filled up almost all the influential and rich appointments from among them, chiefly the governorships. Thus he gave to Merwan the fifth of the war booty of Egypt which, in the ordinary course, should have come to the treasury; he dealt with the public money quite wantonly and he assigned high annuities to his relatives without any regard to principles. It was this especially which greatly displeased Ali.* Thus did Othman create confusion in the system of administration, established with such great circumspection, by Omar. True, he made no alterations in the existing form of government, but, as is always the case with governments conducted on personal and selfish principles, so many exceptions were made in individual cases that, without any official transformation, the Government gradually fell to pieces of itself. At the system of annuities Othman dealt a blow by allowing exceptionally high annuities to his relatives—amounts much too heavy compared with those fixed by Omar. This was an exceedingly perilous policy to adopt —for it could scarcely have failed, among a

* Geschichte der herrsch. Ideen, 337. Sprenger, I, 416.

people so very fond of money, to call forth the most violent discontent. He similarly made numerous exceptions to the rule laid down, with such great emphasis, by Omar; namely, the prohibition to Muslims to hold landed-property in conquered countries.

His cousin Muawiya had been appointed Governor of Damascus even prior to his accession. But when the new Caliph took up the reins of Government, Muawiya hastened to ask him for the investiture of the Crown lands in Syria which, under Omar, were looked upon as the absolute national property of the entire Muslim Community and which were leased out by the Governor for the benefit of the treasury. As his reason Muawiya stated the heavy expenses which he incurred in maintaining the military staff and in entertaining the ambassadors who frequently came from Greece. Othman acceded to the request of his cousin and with it the entire Crown lands of Syria were for ever lost as national property.

Muawiya bequeathed these lands to his successor· Apparently it never occurred to Othman then to make a provision for its reversion to the state after the death of the usufructuary. In precisely the same way did Othman deal with the crown-lands in Babylonia (Sawad). By crown-lands must be understood lands formerly the property of the Persian Kings as also lands abandoned by the

inhabitants. Othman let these out on lease and drew from them an annual income of 50 million dirhams. Here, also, he made exceptions in the case of favourites. He sanctioned purchases of lands which Omar had annulled. The pride and arrogance of the leading patrician families can be inferred from by the fact that they claimed Babylon as their exclusive property; they looked upon it as belonging to them and not to the entire Muslim Community as Omar had expressly laid down. And this province, of which the ruling family wanted to take possession, brought into the treasury a yearly income of 84-90 million dirhams and reckoned a population of at least 2 millions. In this, however, the Caliph does not seem to have given way to them; possibly his sudden end did not give him an opportunity to make this concession in favour of his kinsmen.

It has been suggested that Othman introduced the system of granting land as fiefs and that this institution was borrowed from the Persians among whom this practice was very common. It is true, that this practice did obtain among the Sassanides, but it can easily be shown that the first two propositions are not borne out by historical facts.

The grant of fiefs by Othman were exceptions to the ordinary rule which prohibited Muslims from acquiring landed properties in conquered

countries; and acquisition of landed property in Syria was regarded with disfavour right up to the time of Omar II. This was the subject of rules and regulations made by various Omayyad Caliphs; and Omar II, who, in every respect wanted to revert to the practices of Omar I, issued a law imposing restrictions on the acquisition of landed property.

But in the face of accomplished facts the law remained futile and ineffective. The view that the Arabs borrowed the feudal system from the Persians is utterly unhistorical.

The Feudal system is an institution which has grown up, of itself, among various nations—without one having borrowed it from the other. We find it among the Persians as also among the Germans and other non-Aryan nations, and in every case it seems to have been of indigenous growth.

It is, indeed, a phase of social and economic revolution. It springs forth spontaneously at a certain stage of political development. That Othman granted fiefs, instead of a fixed pay to soldiers, is a statement of very doubtful authority.*

* Mawardi. 334, expressly adds that they were not to be given away as private property but were simply to be let out on lease.

Tischendorf on the Feudal System (Leipzig, 1872. p. 27). The grant of land to troops—the income of which served as their pay—came into existence much later. Von Kremer disagrees with Tischendorf. [See Prutz, 41, Tr.]

To complete the character-sketch of Othman we should add one other fact; namely, that the Caliph accepted presents from his governors. The Governor of Basra sent him a beautiful girl who greatly pleased the aged Caliph.* Othman required, to be sure, plenty of money to satisfy his luxurious tastes and to meet the ever-growing demands of his kinsmen.

Thus to realize a larger income out of the provinces, where greedy governors swallowed up the entire revenue, he strove to separate revenue from political administration. In Egypt, as noticed before, the experiment failed—since the Governor quite frankly declared that he would not submit to another milking the cow while the horns were held by him. In the provinces he succeeded in separating the revenue from political administration, but the result was unfavourable. For instance in Kufa this policy aroused the wrath of the Governor Ammar Ibn Yasir who joined hands with the rebels and helped them in organising the insurrection which terminated in the murder of Othman.

The number of governorships increased of necessity as the Muslim power extended more and more. The premier province was Syria which Muawiya administered. Muawiya appointed, without reference to the Caliph, his Lieutenant Governors for Hims, Kinnasyrin, Urdun, Filistin

* Masudi, II, 262. Aghani, XI, 30.

and the sea coast, and presumably also judges for Damascus.* The next province in importance was the governorship of Kufa where political administration was separated from the revenue department (the collection of the taxes of Sawad) as also from the war office. Other governorships were those of Basra, Karkasiya, Adherbaijan, Hulwan, Mah-Dinar (Nehavand), Hamadan, Ray, Isphahan, Masabadan. In Arabia itself the following governorships existed: Mekka, Taif, Janad, and San'a.† For the territory conquered in Africa no special governorship was created but it was administered from Egypt. Central Arabia probably stood under Taif but East Arabia, Bahrain and Oman undoubtedly, formed part of the governorship of Basra as they did under the Omayyads. Under Othman apparently no essential changes were made in the administration of justice.‡ In the beginning the Caliph himself, like his predecessors, attended to the judicial duties, and several decisions of his have come down to us but later he effected an innovation by appointing a special Judge for Medina.§ Neither under Othman nor under Omar was there any such thing as general appointment of Judges. Judges were appointed

* Sharh-ul-muatta, III, 101. Geschichte der herrsch. Ideen d. Islams. 340. Masudi, IV, 284.

† Ibn Athir, III. 149.

‡ [Cf. Sachau, Zur Altesten Geschichte des Muhammedanischen Rechts. Tr.]

§ Ibn Athir, III, 150.

only in important towns where a large number of Arab troops were quartered and where gradually a Muslim settlement grew up; namely, in Kufa, Basra, and Damascus, presumably also in Kinysarin, in Fustat (old Cairo) and Kairowan. It is not improbable that these Judges appointed subordinate Judges and deputies within their own jurisdiction, but our information is scanty and insufficient.

Othman's Caliphate ended in a gory sunset. An insurrection, in which the most influential Ansars and Muhajirin took part and in which Ali was not altogether blameless, broke out; and the aged Caliph, after a prolonged siege, was murdered in his house. While reading the Qur'an he received the fatal blow. Ali was chosen Caliph, but only a portion of the vast empire acknowledged his election. A terrible civil war, fought with fierce bitterness, broke out between him and Muawiya—the leader of the Omayyad Mekkan Party. Muawiya too completely absorbed the attention and activity of Ali to leave him any time for administrative changes and reforms. He only removed some of the most glaring evils which had struck root under his predecessor. He took back some of the landed properties in Iraq which Othman had granted to his favourites and he also dismissed the majority of the governors appointed by him.*

* Masudi, IV, 295.

The patriarchal epoch of Islam ended in streams of bloodshed in the war between the Omayyads, who gathered round Muawiya and the supporters of the old order of things, the party of Medina, which unsheathed its sword for Ali.*

The sentiment of Arab Nationality which Omar created and cemented and which was an achievement of imperishable glory proved of sufficient strength and vitality to save the Caliphate from going to ruins in spite of the terrible internecine Civil war. Nay—not only that—to it must be ascribed Islam's onward career and victorious campaigns against foreign nations.

With the murder of Ali, the dispute for the Caliphate came to an end. Muawiya became the Caliph and he ruled over the whole of the Muslim Empire with unlimited sway. He was announced as Caliph from all the pulpits of the Muslim Empire, and was saluted as the Prince of the faithful.

When all this was done and when homage was paid to him in all the provinces—it was then, indeed, that the full force of the revolution was understood and its significance completely realized. The newly arisen system of government,—its tone, its temper, its character, its very essence,—

* In the battle of Siffin 2,800 companions of the Prophet fought under the banner of Ali. Masudi, IV, 295.

was all strikingly dissimilar and essentially different from the epoch of the first four Caliphs.

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IV.

DAMASCUS AND THE COURT OF THE OMAYYADS.

The earliest days of Damascus fall in prehistoric times but even in the remotest antiquity it was widely-known in the whole of Anterior Asia and kings ruled there whose armies frequently marched through Syria. The position of the town is so exceedingly favourable that it must, doubtless, have become early in its history an important centre of the intercourse of nations and exchange of wares as also a cradle of political and social life of those neighbourhoods.

Situated close to the edge of the Anti-Lebanon, in the midst of a fertile plain extending for miles and miles around it and blessed with a great wealth of constantly flowing water, it gently slopes down from the foot of the mountain range towards the plateau of the great Syrian desert. Damascus was meant by nature to be the capital of this large circumjacent tract of land.

From the Phœnician Coast a considerable amount of goods passed through the fertile plains of Coele-Syria to Damascus; whence it was transmitted to the Euphrates. By the same route, indeed, came the valuable products of

Babylonia, Assyria, Media and Persia to the shores of the Mediterranean. A commercial route also led from the north of Syria, from Aleppo (Berœa of the ancients) across Hamah (Epiphania) and Hims (Emessa) which is partially used to this day and which was then studded with a number of caravanserais to the southern parts of Syria, the old district of Ituræa, the modern Gedur, Trachonitis (Lagâh), Hauranitis, the modern Haurân, and branched off on the one hand across Gaulan (Gaulanitis) to Palestine, and on the other across Bostra (the Bosra of the present time) to the north of Arabia.

Damascus was, therefore, even in the earliest times the accepted queen of the entire East Syrian district whose rural population exchanged the products of their soil and the result of their domestic labour for the diligent industry of the town.* The wandering tribes of the extensive high plain eastward, extending right up to the banks of the Euphrates, lived in ancient times as they do now, pre-eminently upon dairy-farming and the emoluments they obtained as brokers in the sale of goods, or as guides of the caravans, or as drivers of cattle and cattle-breeders. In the rich bazars of Damascus, provided with all the necessities of life, there were supplied then, as

* [On Damascus, see Guy Le Strange's Palestine under the Moslems, pp. 224 et Sq. and Prof. Margoliouth's Cairo, Jerusalem and Damascus, Chapter XII. Tr.]

now, clothing, arms, household utensils and the few objects of luxury then needed. These the wandering tribes exchanged either for their own produce or obtained in exchange chiefly for sheep and camel-wool, hides, soda, kali, red-dye, sulphur, salt and the plants of the desert as also for the surplus of their numerous herds of sheep, goats, camels and horses. And besides these they supplied to the great town, for its population, the necessary number of cattle for consumption. All the small towns and hamlets, whose extensive ruins (bearing witness to their ancient culture), we meet so frequently in the eastern part of middle Syria beginning from Bostra in the south to Palmyra in the east and Hims in the north, stood more or less in commercial, often indeed, in political dependence of Damascus. In the happy days of antiquity these lands were far more thickly populated than in the case with them now; for famine and pestilence appearing, as they did, so frequently, during the declining period of the Caliphate, had not then laid their devastating hand upon them. But the desert itself was, neither then nor is it now, completely devoid of human population. These very Beduins, who inhabit them now, inhabited them in the days of yore and bore, in not a few instances, the very same tribal names and possibly occupied the very same pastoral lands.

The Beduins obtained from the few wells —which were well known to them—a sufficient

supply of water for themselves and their herds during the most intense heat of the summer. But in autumn, winter and spring when, after refreshing showers the desert was suddenly clothed with verdure, they could remove from one pasturage to another and thus supply a rich variety of fodder to their beasts of burden.

Particular oases, with permanent springs, were in antiquity the centres of large settlements. And we should not omit to mention that in those times land fit for cultivation extended much more towards the east than was the case in subsequent centuries. He, who passes down the borders of the Syrian desert from Hims to Bostra will, as within recent years Burton has pointed out, notice all over traces of ancient habitation, ruins of Roman border fortifications, remains of quondam cisterns and other clear tokens of the former density of population in places now in complete desolation and wilderness. Thus Damascus lay on the border of two equally important territories. Under its sphere of influence towards the west was the fertile and richly-populated plain which the ancients called Coele-Syria, the cavern of Syria, on account of its position between the two mountain chains of Lebanon and Anti-Lebanon and towards the east lay at its command the immeasurable ocean of the Syrio-Arabian sands; only Palmyra, the Queen of the Desert, the wonderful city of

Zenobia, could monopolise, for a short time, the transit-trade between the east and the west.

Information fails us concerning the history of Damascus under the Assyrian, Chaldeo-Babylonian and the old Persian rule. But so much, at least, might be inferred from Ezekiel that even then it attained, by its commercial activity, a position of considerable importance. In the beginning it was independent but it was conquered by David, but as early as the reign of Solomon it shook off the yoke and became dangerous to the later kings of Judah and Israel.

By Tiglath-Pilesar it was conquered for the Assyrians. Then it passed under the Persians and was betrayed after the battle of Issus to Alexander the Great, who captured the treasures and the *harems* of Darius. The Seleucides took up their quarter in Antioch, while Damascus, along with Palestine and Coele-Syria, was often under the Egyptian control. For the first time, about 111 before Christ, Antiochus IX obtained Phœnicia and Syria and chose Damascus for his residence. About 84 before Christ, Antiochus Dionysos lost it to the Arab prince Aretas. Twenty years later (64 before Christ) the town was occupied by the Romans under Metellus, after the defeat of the king Tigranes, and Pompey there received the ambassadors and presents from the kings of the neighbouring lands. Syria then became a

Roman province and the Pro-Consuls who had their official residence usually at Antioch came only rarely to Damascus. At the time of the Apostle Paul, Damascus was under the Arab king Aretas, a vassal of the Romans, who was appointed governor there. Since the Seleucide epoch many Jews had settled there and as Josephus reports, almost all the women were of Jewish persuasion.

Paul, who went to the synagogues of Damascus, lighted upon some young Christians, for Christianity had early struck root on this soil and a bishopric was soon established.

The Emperor Philippus made it a Roman colony. Diocletian repaired the old fortifications, intending to establish there a great Roman frontier fortress. He also founded there the famous arms-factory which, for a long time, enjoyed a great renown. Theodosius converted the heathen temple into a church and presented it to the Christians.* Justinian erected a new Christian Church. But during the repeated inroads and plunders of the Persians, specially in the year 605 A. D., in the reign of the Emperor Heraklius, Damascus suffered most

*Procop. De Aedif, Justin, Lib V, Vol. III, p. 328. Since remotest antiquity Damascus has been an important commercial town. The intercourse with Tyre, Ezekiel has mentioned, 27, 18. The artistic clothes, which were prepared there, were prized since remotest antiquity. In the early Christian history Damascus owes its fame and importance to the conversion and first teachings of Paul.

frightfully; a large portion of its inhabitants was carried away as prisoners and slaves and it is certain that the majority of the public buildings was destroyed. Inspite of the silence of old writers the importance which Damascus always enjoyed appears clearly enough from the letter of the Emperor Julian to Serapion, in which he describes Damascus as the eye of the entire East. It was thereby intended to convey that Damascus was accounted the most important frontier town and place of observation for the East. Here was also the centre of zealous theological studies which reached their highest point in John of Damascus and his pupil Theodore Abucara whose life and intellectual activity fall in with the beginning of the Arab rule. The splendid position of Damascus, which enraptured the Arabs to such an extent that they declared the Ghuta, *i.e.*, the plain of Damascus, an earthly paradise, had even stirred the admiration of the uninspiring Byzantines and George Pachymeres calls this town "the most beautiful," in the world.

The first sight has lost much of its charm since the postal route to Damascus by mail-coach has been adopted by travellers. This route leads from Khan-Dymas through the ravines of Anti-Lebanon and opens out at the rocky-pass of Rabwa into the plain.

Quite different is the view obtained if one goes along the old caravan road which stretches from Khan-Dymas, along the back of Anti-Lebanon, at the brink of rocky-ridges which suddenly and precipitately slope down towards the Ghuta. These rocky-ridges the people of Damascus call the Jebel Kasyun. There, all of a sudden, opens out a prodigious perspective over the green plain clothed with luxurious and abundant vegetation. The extreme lines of the distant horizon are lost in the blue vapours and in the shining glimmer of the dazzling sunlight reflected by the ochre sand-ground of the desert. Towards the north and the north-east extend in picturesque forms the angular and rocky-edges of Anti-Lebanon, which gradually slope down towards the desert and seem to lose themselves in the sand waves. In the south rises the dismal vastness of the Jebel-ush-Shaikh, of Hermon, whose weather-tossed head is usually covered with a glistening white snow-turban; while towards the south-east and the east the low-lying mountain chains of Ledschah and Hauran in deep violet tints, stand in bold relief against the dark blue of the heavens.

There at our feet lies the old, beautiful city of the Caliphs in the midst of an emerald girdle of gardens and plants, a yellow sea of houses out of which shoot out the large cupola and the four slender *minarets*

and countless other cupolas and towers of the chief mosque.

At the time the first Arab army reached its gate, the town was not quite so extended as it is now, but on the other hand the cultivation in the environs was richer and more careful then than in modern days.

The extent of the town then can easily be estimated by the remains of the old town-walls which, even to this day, stand erect and occupy the same old site as silent witnesses of its past greatness. They enclose from east to west an extensive oblong, the north-west corner of which is somewhat truncated; for probably on the very spot, which is now occupied by the citadel, a much larger fortification stood. The town-walls were about twenty feet high and fifteen feet thick. They were made of squared stones and rested partially on a much older foundation, going back to the pre-Grecian period, and that can easily be seen by the powerful circumference of the blocks of stones, carefully hewn, and joined together without mortar. Square, projecting towers, crowned with spires, following one another, at a distance of about 50 steps, served the archers and slingers to protect the walls from being scaled and a moat 10 to 15 feet broad, filled with water from the Barada, rendered the attack of the enemy difficult. Dwelling-houses were built here and

there on the town-walls which rose from one to two stories above the walls, quite in the same fashion as we now see specially on the line from the gate of St. Thomas to the Bab-ul-Faraj. Several gateways, provided with heavy iron-plated double folding gates, and furnished with numerous watch posts, served as a means of communication between the town and the open country.

The town-gate which first came in sight of the Arabs, advancing from the south-east, was probably the eastern gate (Bab-ul-Ishraqi). In front of this gate stood a great temple of the Roman period* the portal of which survived till the year 602 A. H. (1205-6 A. D.). All traces of this structure have entirely disappeared, but the eastern gate itself has to this day remained unchanged. It is precisely the same now as it was in the Roman time when the Apostle Paul threaded his way through it. Only the middle entrance of this gate is now walled up. It consists of a large, middle portal of firm Roman construction, of hard, beautifully polished reddish-sandstone with a round archway. On the two sides of this chief portal there are two smaller ones with arched gates. The middle large portal, now walled up, was meant for horsemen, camels and beasts of burden, and of the two side-gates one

* Comp. Von Kremer, Topographie Von Damascus, p. II.

served for the in, and the other for the out streaming multitude. Many such gates were to be found in other places. The gate on the north-side should be mentioned which is now called *Bab-ul-Karadis* (more correctly Bab-ul-Faradis, *i.e.*, the gate of the gardens), composed entirely of blocks of stones and not arched but covered with large stone-slabs, a style of building which doubtless dates from remote antiquity. On the west side there was a large gate, on the site of the present Bab-ul-Jabiyyah, now no longer preserved in its original form. On the north side there is a Roman portal, used still as formerly, and bears the name of Bab-ul-Saghir. It is built of well-cut and trimmed stones similar to that of the east gate with wide arches and covered with finely-worked friezes.

Thus did Damascus present itself, in its outward view to the Arab warriors lying before its gates, and the interior of the town was in perfect harmony with its external appearance. The *via recta* in breadth about 15 feet, mentioned even in the history of the apostles as the real forum of the town, extended from the eastern gate, for a full quarter of a mile, as far as the western gate, now known as Bab-ul-Jabiyyah. Midway between two gates and almost in the middle of the town stood the metropolitan church which is said to have been dedicated to and named after John the

Baptist. It stood at the place of an old heathen temple, on the powerful foundations of which its walls rested. Great portals, supported by Corinthian pillars, with rich architraves decorated by sculptures of the late Roman-Renaissance styled, adorned the entrance. A considerable remnant of one of these old temple gates. which in style and magnificence of proportion very forcibly reminds us of Baalbeck, is preserved on the west side of the present chief mosque in front of the Barid gate. Similarly on the south side a threefold but smaller portal is quite intact but it belongs, not to the old heathen temple, but to the Byzantine Christian Church. The Arabs have simply walled it up but the distinguishing inscription on the chief gate has been left quite uninjured. It runs as follows:

"Thy Kingdom, O Christ, is an everlasting kingdom and thy rule for all generations."

The inside of the church must have been exceedingly beautiful. The nave arched by a prodigious cupola, which the Arabs call the cupola of the eagle, is undoubtedly of Byzantine origin. The walls, both outwardly and inwardly, were inlaid with splendid mosaics, considerable remains of which have survived to this day. These mosaics, containing on gold foundation representations of plants, flowers and villas, remind us both in style and technique of the

mosaics of the Church of St. Mark in Venice. The Caliph Walid I whom the Arab authors call the founder of the great mosque only added, to the right and left of the real church, spacious porticos and corridors. He built the beautiful arcades and the *minarets* encircling the entire courtyard of the mosque.

Round the church of St. John, which was indeed the heart of the town, branched off in all directions broad streets provided with pavements for foot-passengers where colonnades, whose traces can be followed to this day, afforded in summer a welcome protection against the sun, and in winter against the rain. An aqueduct, dating from remote antiquity, supplied, by means of enormous vaults of gigantic masonry, the fresh water of the Chrysorrhoas (Barada) into the town.

In the thirteen other churches, besides the cathedral, we have evidence of the wealth and piety of the inhabitants. Many Byzantine magnates and dignitaries had their residence there. Also it was the seat of a strong garrison.

Public and private buildings of great magnificence were not wanting there either, but of these scarcely any traces worth mentioning have survived the wreck of time.

Thus did the Arab conquerors find Damascus when they conquered it. According to the native tradition the eastern half of the town was said to have been taken by force; while the

western half passed into the possession of the Muslims by capitulation. For this reason the church of St. John was divided; one half served as a mosque, while the other continued to remain as before in the hands of the Christians for their worship. Thus in one and the same place both the Qur'an and the Christian liturgy could be heard.

The Caliph Walid I for the first time took the whole of the church into his possession. He made the Christians give up their portion of the church partly by threats and partly by promises of indemnity, and then transformed the whole into a splendid mosque radiant with the richest gold ornamentation of the Byzantine fashion, which became famous throughout the East under the name of the Omayyad mosque. It is an abiding monument of the artistic sense and piety of the Omayyad dynasty. After the mosques of Mekka, Medina and Jerusalem that of Damascus passed as the fourth holiest sanctuary of the entire Muslim world. Here, in its hall, many important events, in the history of the East, took place. Here preached Muawiah, the founder of the Omayyad dynasty, and called for vengeance against the murderers (by displaying the chopped off hand of the murdered Caliph Othman, his gory shirt and the Qur'an still dripping with his blood) and thus kindled into flame the first civil war of Islam. Here was also

announced the deposition of so many Caliphs by the assembled populace and here too took place the general homage to the newly-elect sovereign.

The Arabs first settled down in the western portion of the town surrounding the citadel and probably the Christian inhabitants had to vacate this part of Damascus. It was especially the *Barada Plain*, now called the green field (Maidan-ul-Akhzar), where the Arabs took up their quarter and the Muslim population gradually extended further and further; the Christian and Jews were more and more confined to the eastern portion of the town where, up to the present day, they are exclusively to be found: the former on the north; the later on the south side of the *via recta* (Darb-ul-Mustaqim). The Arabs brought here also their peculiar habits and customs to which they in all the conquered countries closely adhered. For in spite of the great facility with which the Arabs borrowed so much of foreign civilization, they ever and anon impressed their own national, quite original stamp, on the lands they conquered and ruled.

From the moment Damascus passed into Arab hands it changed its character. It ceased to be a Græco-Syrian town and became very soon a genuine Arab one. As soon as it became the residence of the Caliph the Muslim population increased to such an extent, partly by immigration and partly by large conversions to Islam

that the early inhabitants, very quickly, indeed, found themselves in a hopeless minority. We can form an idea of the extent of the Muslim population, then, by a report which has come down to us. According to it, under Walid I, (705-715 A.D.), the number of persons who received annuities from the State treasury had already risen to 45,000.*

When we remember that, at the time, state annuity was only received by those who were either capable of military service or invested with a Government post; we may fix the total number of the Muslim population, at the very least, to the double, if not treble, of that figure. It is scarcely to be doubted that as early as the middle of the Omayyad period the character of Damascus and the general tone of the life of its inhabitants could not have been very different from what they are to-day.

It was conspicuous by a great liveliness of intercourse, since it was then, the seat of a rich and lavish court and its entire retinue of high officials. Here was also the centre of Government and the head-quarters of a considerable number of troops and the focus of a continuous stream of strangers, merchants and caravans from all parts of the Orient. The very noise and bustle which we, to this day, admire in the

* De Goeje, Frag. Hist. Arab., Vol. I, p. 5.

bazars of Damascus, must have then, on a far more colossal scale, animated and enlivened the markets and the streets. Even at that time, there prevailed in the bazars the very same system of separation of the different arts and crafts which obtains all over the East and confers upon the great market hall such a peculiar and fascinating charm. Damascus has always been distinguished by this. Its shops were not merely provided with all the rich products of art and nature of the three continents, but also the most variegated and picturesque crowd of humanity animated and filled its bazars. There came troops of Syrian country-folks in their purple red coats adorned in the back with arabesques of genuine old Asiatic type, with wide breeches, red pointed shoes and huge white or blue turbans, driving in front of them donkeys, mules and camels loaded with the goods of the country. There roamed about the sun-burnt Beduins, lost in the immensity of the crowd, in their brown-white, striped mantles made of camel-wool, their heads tied with dirty, red-yellow striped Kaffiya. Among them rode on a beautiful Arab charger, the aristocrat, a Beduin-chief probably, with a lance in his hand adorned with a tuft of black ostrich-feather on the point. Descendants of the Prophet, with fine long-drawn profile, dark, penetrating eyes and thin beards paced up to the mosque, with measured steps, in long Kaftans, silently telling their beads. Bevies of women in

their white mantles, veiling themselves completely, higgled in the shops. Children, nigger-slaves, and beggars made their way through the crowd, itinerant *halwa-sellers* offered their goods for sale; water-carriers, selling ice-lemonades and other *sherbets*, made a noise with two brass, mussel-shaped cups: in between hummed and buzzed through the indescribable stir and bustle sounds rising from a hundred different tongues set in motion with Arab sprightliness.

And all this turmoil and bustle and noise is confined within the narrow space of the market halls which are protected against the burning sun either by strong stone-arches or by wooden beams covered with rush-mattresses and which are bounded on either side by shops and walls of the public or private houses rising behind the mosques and the Khanghas.

Some of these bazars occupied doubtless the very same spot even before the Arab conquest and also retained their general features, *e.g.*, the bazar of the Greeks and several others. A further peculiarity, quite Oriental, was introduced by the Arabs. This was the separation or rather isolation of individual quarters of the town; nay, even particular streets which were large enough and the houses lying within them were closed by special gates which at night or during danger of disturbance remained locked, and which shut off one quarter of the

town from the other. The Arabs were always noted for their antipathy to centralization.

In fixed quarters where the Arab army settled down, colonies were formed out of which towns grew up later (*e.g.*, Basra, Kufa, Fustat, Qairwan). The Arabs lived apart according to their respective tribes. Every tribe had its own special quarter in the town, its own mosque, its own bazar, even its own burial ground; for even in death they were unwilling to separate from their tribesmen or mix with strangers.* Every such quarter of the town formed a small town by itself and was closed against others by a gate at the end of the main street which in case of necessity barred all communication with the rest of the town. This ancient arrangement still obtains in Damascus, Cairo, Aleppo; in fact in all Arab towns. When I returned home from a visit, of an evening, in Damascus, I had often to pass through four or five of such gates.

The construction of the dwelling houses of the Syrian capital is very peculiar. They are almost all of mud. The public buildings only have stone walls. There is hardly any doubt that precisely the same was the case in antiquity; had it been otherwise more buildings would surely

Cf. Culturgeschichtliche Streifzüge, p. 63. [This book has lately been translated into English and printed by Messrs. Thacker, Spink & Co., Calcutta.]

have survived. When the Arabs conquered Syria they had no time to form their own style of architecture. They accordingly adopted the Byzantine fashion and built their houses in accordance with the old style of the late Roman times.

Thick mud walls, the side facing the street very frequently unwhite-washed, shut out the Damascus home from the outward world. There were no windows looking out into the street besides those of the rooms in the first storey and these were well-guarded with wooden lattices.

The inner arrangement and division of such a home were quite Roman in style. Just as in Syria the Arabs accepted the Roman style of architecture, so in other provinces they accepted other patterns. The Arab houses in the towns of Iraq, particularly in Baghdad, clearly point to Persian style and taste.

A covered passage forms the entrance to the Damascus dwelling-houses, which usually leads at a right angle into the inner apartment so that, even if the door be opened, no curious glance can reach the inner chambers. In the doorway which corresponds to the Roman *ostium*, there sits on a wooden bench or on an estrade of either clay or stone the porter whose duty it is to announce the visitor. This institution exists in all the big houses.

In the houses of the rich the door is usually of wood, and is decorated with oil-painting of glaring colour bearing generally a pious inscription. It opens from within but it does not rest on iron hinges. It moves on wedge-shaped axles let in to the upper and lower door-sills similar to those of the Roman houses.

The door is locked from inside by means of a wooden bar. But now-a-days the European iron key is being used more and more, only the key, made by native locksmiths, is prodigiously clumsy. The door-way leads into an open, oblong court-yard; this in the case of larger buildings, is surrounded with colonnades and has, on the south-side, an open hall facing the north, whose facade is supported by a long pointed arch. This hall is called *liwan* and no house is without it. It is the most pleasant spot in hot summer days where one enjoys, of an evening, the cool north breeze. Here the visitors are received during the summer season. In the midst of the court-yards rises 1 to 1½ foot above the ground, a water-basin of stone covered with marble. The ground of the court-yard as well as the *liwan* is paved with marble and many-coloured stones. Beautiful arabesques are worked by means of black volcanic stone which comes from the Ledschâh district and the red sand-stone of Anti-Lebanon. Usually there stand a couple of orange and citron trees in the court-yard. Often enough

we find an isolated palm though this beautiful tree is rare and does not thrive in Damascus; the winter with its cold north storms, showers of rain, and snow-drifts is too inclement for its growth. Round the court-yard are grouped the ground-floor rooms, whose windows are furnished with wooden-lattices and are broad, unarched and of oblong shape. Through a second, narrow doorway in the houses of great families we enter a second court-yard and very often there is a third one still, where everything is of the same kind as in the first, only of larger dimensions and of finer taste. The marble mosaics of the floor are more carefully wrought, the water-basins are larger and provided with artificial cascades.

Steep and pretty narrow staircases, with painted bannisters, lead up to the flat roofs of the lower chambers on which mostly is to be found an open gallery, with many coloured green or red bannisters which partially extend round the court-yard, and from this gallery access is obtained to the upper storeys. Vines, night-shades and other green creeping-plants, in ever-beautiful bloom climb up the court-yard and cover the walls, under their massive foliage, which according to the original Damascus fashion are painted with horizontal stripes a foot broad, alternately white-blue and white-red, the sharp colours of which stand in contrast to the interior of the houses and confer upon them a peculiarly

lively and cheerful appearance. The inner walls of the modern *liwan*, on the south-side of the court-yard, are almost all, without exception, adorned with paintings of Byzantine mode, *e.g.*, representations of landscapes, palaces and waterfalls. On the right and the left of the *liwan* open out the doors of the reception-rooms which are used during the cold-season; while in summer the *liwan* serves as a permanent place of abode. These rooms, which are called kâtah (halls), have similarly their small water-basins with their constantly flowing fountains.

It was Walid I who, specially, adorned Damascus and its neighbourhood with beautiful architecture and set up for himself an imperishable memorial by the extension of the great mosque.*

An old chronicler who visited Damascus in the train of the Caliph Mutasim, describes an Omayyad palace, for us, as follows : "When we had come to Damascus we inspected the palace which was completely paved with green marble. In the midst of the court-yard there was a great water-basin, with a constant supply of water, which watered a garden, where stood all kinds of the most beautiful plants and trees; while countless

* De Goeje, Frag. Hist. Arab., Vol. I, p. 11.

singing-birds whose songs replaced the sweetest melody, enlivened and animated it."*

Far-famed, even in the Arab world, was the splendour of the architecture and palaces of Damascus.

When a general in Iraq rose against the Caliph and threatened to leave no stone upon another in Damascus the poet FaRazdaq, alluded to this in one of his poems, thus:

"About thee have announced the seers that thou wouldst destroy Damascus the town built by the *Jins*.

Who brought the stones from snow-clad mountains;

Blocks of stones which are piled one upon another.

The Syrian knights are already approaching it in whose lances banners are waving;

Like vultures they are gazing at the booty.

Their chargers are led by a sainted knight whose attack no troops can withstand."†

It is the immortal glory of the Omayyads that they provided the town with a wealth of water-supply which is still unsurpassed in the entire East. The Barada, the Chrysorrhoas of the Greeks, conducted even in antiquity a rich

* Ghurar, Fol. 68.

† De Goeje, Frag. Hist. Arab., p. 68.

supply of drinking-water, but the credit of having developed the system of water-courses to such an extent that to this day even the poorest house has its ever-flowing fountain, belongs exclusively to the Caliphs of the first dynasty. One of the seven principal canals still bears the name of the Caliph Yazid (Nahr Yazid) who opened it.* Thus here and in its charming surroundings the rulers of Damascus established their residence, a lovelier than which cannot be imagined. The palace of the Caliphs shone with gold and marble, fine mosaics adorned the walls and the floor, ever-flowing fountains and cascades diffused the most pleasant coolness and their sweet murmur conduced to a refreshing slumber.

The ceilings of the rooms glistened with gold ornamentations; and various kinds of tables, gorgeously dressed slaves in black silken-stuffs of sharp colours in striped patterns, still common in Damascus, filled the space. In the inner apartments dwelt the fairest women in the world.

Most of these rulers of Damascus were sporting, pleasure-loving and insatiable drinkers, to whom the unavoidable cares of rulers must often have been very uncongenial and irksome. But still there were certain duties which even

* *Cf.* My Topography of Damascus. [It is a pity that Mr. Ameer Ali, in his History of the Saracens, should have literally translated passage after passage of Von Kremer without a word of acknowledgment. See his History of the Saracens, pp. 193, 196, 198, etc., etc. Tr.]

they, in those days of royal omnipotence, could not avoid. Pre-eminently, and this was indeed the most burdensome, the Caliph had to publicly perform the five daily prayers in the mosque and lead the divine-service of the community. In addition to this he had to preach on Friday. On such occasions, and particularly on great festival days, the Caliph appeared in the mosque completely dressed in a white tunic (durra'ah);* the head covered with a pointed cap (qalansuwah);† and ascending the pulpit delivered his sermon to the assembled community. This duty every Caliph had to perform without fail, after his election and after he had received homage. The only insignia of his exalted dignity consisted in the signet and a sceptre-like staff.‡ Some Caliphs, indeed, did not observe these duties punctiliously so soon as they felt themselves sufficiently secure on the throne. Yazid II had himself represented at public prayers by the chief of the body-guard (Sahib Ush-Shurta);§ and Walid II, one of the most light-minded princes of this pleasure-seeking and enjoyment-loving dynasty, indulged in

* Aghani, Vol. VI, p. 141.

† De Goeje, Frag. Hist. Arab., p. 7. [See Khuda Bukhsh, Islamic Civilization, p. 93, note 3, Tr.]

‡ De Goeje, Frag. Hist. Arab., p. 82. Among the Abbasids the black colour was prescribed and the preacher in the chief mosque had to appear, for preaching on Friday, dressed in a black coat with a black capuche on the head. In a MS. of the Maqamah of Hariri, provided with beautiful water-colour paintings, in the Royal Library of Vienna, the preacher is so painted. He might be mistaken for a Franciscan monk who pulls on the capuche just at the time of preaching.

§ Abul Mahasin, Annales, Ed. Juynboll, Vol. I, p. 283.

the prank (if this story is to be credited) when the call to prayer was sounded, of sending a beautiful lady of the *harem*, with whom he was amusing himself, to the mosque, covered in his cloak, to preside, instead of himself, at the prayers of the assembled community.

Along with these religious functions it was necessary, for the Caliph as the head of the judiciary to grant audiences. Distinction was made even then between the large, general and small audiences (Majlis am, Majlis Khas). At the front sat the Caliph in the great reception-hall on his throne, which does not at all correspond to the idea of the European throne. The oriental throne was neither more nor less than a raised, usually square seat, covered with cushions of the richest golden stuff on which sat the Caliph with crossed-legs. On the right of the Caliph stood, in a row, along the hall, at the audience, the paternal and on the left the maternal relations.* Immediately by the side were his brothers and sons; further behind grouped themselves the courtiers and dignitaries, then the clients of the court, the poets, the applicants, and the entire train of people of lesser note. On such occasions poets used to appear on the scene and declaim their poems in praise of the prince. At the

* Aghani, Vol. IV, pp. 80 and 81.

small audience the nearest relatives of the Caliph sat on small chairs without backs or arms, and the long rows of the court-retinue had to content themselves with cushions. The dress of the Caliph, on such occasions, was exceedingly brilliant, for early indeed, the Arab magnates took an immense delight in the splendour of dresses and costumes despite the prohibition of the Qur'an. When Amr, the Governor of Egypt, preached in the great mosque of the old Cairo (Fustat) he wore an under-garment of gold-brocade, on the top of which he put on an upper garment (hullah), a kaftan (jubbah), and had his head covered with a turban.* Walid II carried round his neck gold chains set with precious stones which he changed daily† and on the day of his murder in his country castle 'Najra' he had a tunic of gold-brocade and wide trousers of black damask-silk.‡ The Caliph Sulaiman was so fond of damascene stuff (washy) that this precious material which was at that time pre-eminently manufactured in Yaman, Kufa and Alexandria, came into general fashion. People used under-garments, Kaftan, breeches, turbans, and caps of damascene stuff. No servant of the court had the courage to appear before

* Ibn Taghrybardy, Vol. I, p. 81.

† Culturgesch. Streifzüge, p. 29. [Khuda Bukhsh's translation, p. 89.]

‡ De Goeje, Frag. Hist. Arab., p. 143.

the Caliph in any other material. Even the cook, when he came before the Caliph, had his jacket and cap of the same material. He always wore dresses of this stuff at home, as well as in the mosque and during his excursions on horseback, and according to his desire he was even buried clothed in it.*

The affairs of the Government, to be sure, claimed some time. The evenings, on the contrary, were devoted, in a large measure, to social intercourse and to the more limited circle of the *harem* though it was numerous enough. In the beautiful summer nights people amused themselves in divers ways, at the social meetings, which according to the custom still obtaining in the East, continued till late. Even under the first rulers of the house of the Omayyads it was a favourite amusement at the court to shorten the evenings by relating stories. For this the ruling family had relied chiefly upon the South-Arabian tribes who had largely taken part in the first conquests and had eventually settled down in Syria. And that accounts for a fact which the Arab authors report; namely, that the subject matter of these stories, at the court of Damascus, was chiefly drawn from the old legends. Yaman is the only district of the Arabian Peninsula, (South-Arabian), which possessed a civilization, dating back to a

* Masu'di, Vol. IV, p. 400.

very remote period, and which could boast of a remarkable history, a popular tradition and many local legends about the strength and splendour of its old kings, their campaigns, adventures and heroic achievements. These stories, adorned with a poetical tint, formed, in the earliest times, the favourite subject of these discourses, with which they whiled away the evenings.* Even recitation from contemporary poets or poets famous before the birth of Prophet enlivened these social gatherings.

Despite the prohibition of Islam it was not long before people indulged in wine and the Court of Damascus summoned singers from Mekka and Medina—the then centres of the art of music and song, with the result that under some Caliphs, the evening parties degenerated into downright drinking-bouts and carouses.†

In darkest colours the native writers describe the second Caliph Yazid I. Much of it evidently is pure exaggeration. We should not

* Such a narrator of stories as 'Abid ibn Sharyyah. I have published a fragment of his. *Cf.* my "Südarab. Sage," p. 49. Then Wahb ibn Munnabbih, 'Awana and Yazid ibn Muffarij. *Cf.* Hammer Purgstall. Lit-gesch., Vol. II, pp. 222-226. Sprenger, Vol. I, p. 516.

†[Khuda Bukhsh, Islamic Civilization, p. 88. There is an interesting passage in Ibn Hazm's Jamharatu-n-Nasab. It runs thus :—Abdul Hakim was the son of Amir. He was one of the fashionable men of Quraish. He had taken a house for his companions and he furnished it with books, and provided it with chess, dice, etc. *Ibid*. p. XIV. It seems that the Arabs, soon after Islam, even started clubs. Tr.]

forget, indeed, that the historians whose works have come down to us lived at the time of the Abbasids, when it would have been dangerous to say anything good or honourable of the Omayyad dynasty. Nevertheless a writer, otherwise very impartial and unprejudiced, tells us much that is very offensive of Yazid I.* He is said to have given himself up to drink. He obtained his wine from Taif, a small mountainous town, two days' journey from Mekka, the excellent grapes of which are still highly prized. Its wine, to strengthen the intoxicating effect, was mixed with musk. He had a pet monkey which was constantly by his side and to which he gave the dignified title of Abu Qais. He said in joke that the monkey was an old Jew whom God metamorphosed on account of his sins. Often he would jump upon his shoulders and sip out of his cup and was, indeed, never absent from his drinking-bouts. On one occasion a large number of people had assembled before the gate of the palace to see the Caliph ride out, but instead of the Caliph they witnessed the monkey in his place. Even in a race Abu Qais took part, attired in a beautiful black silken garment, with a many coloured cap on the head

* The author of the work entitled, Qutb-us-Surur. [See Khuda Bukhsh, p. 88, note [illegible]].

and rode on a donkey trained for the occasion.* But this delightful freak caused his death. The donkey threw him over and Abu Qais broke his neck. The Caliph was disconsolate and gave a state funeral to his monkey, and buried him according to true Muslim rites and then received the customary condolence-visits. Even a verse from a poem is handed down to us which he is said to have composed about this favourite. "My drinking-companion is Abu Qais. He is clever and intelligent and full of fun when the wit of the company suffers an eclipse."† Whatever doubts we may entertain regarding the correctness of the stories related about Yazid I, coming as they do from Shiite sources, so much is certain that the court life then was very sensual. Among the games in fashion at the time, chess was not considered quite respectable. They loved the Persian game of polo (saulajan).‡ Even cock-fights were not infrequent, though strongly prohibited by several Caliphs. But races were especially loved; even a princess (the daughter of the Caliph Hisham) personally took part in them.§ Women then, enjoyed much greater

* Mas'udi, Vol. V, p. 157.

† Qutb-us-Surur, I Fol. 114 and 115.

‡ Aghani, Vol. VI, p. 155.

§ De Goeje, Frag. Hist. Arab., p. 102. *Ibid*, p. 114. At a race which Walid II caused to be run at Rusafa no less than 1,000 horses were in the race-course. Mas'udi, Vol. VI, p. 14.

freedom than they do now in Muslim countries. Obscure poets made love even to princesses, and they fearlessly sang of such love in their poems. Abu Dahbal, of a noble Mekkan family, was known for his manly beauty. His long locks covered his shoulders. A rare poetical talent was his. When Atika, the daughter of the Caliph Muawiya, was making pilgrimage to Mekka, she broke her journey at Dhu Tuwah, a place outside the town on the caravan-route to Medina. It happened that on a hot summer-day, she ordered her servants to lift up the curtain of the hall, where she was sitting. Directly after Abu Dahbal passed by. The princess was sitting in a light garment and was looking out in the street when she noticed the intrusive observer as he stood and gazed at her. She hastened to cover herself and ordered the curtain to be let down. But the poor Abu Dahbal was lost. He then began to compose poems on Atika which became very popular and the matter eventually came to her notice. Presently love-affair came about between the princess and the poet. He followed her to Damascus but in vain. He alludes to this in one of his poems :—

O Friend! May God bless the houses and the dwellers,
At the gate of Jairun where the fountain rustles.

On the left if thou passest thro' that gate,*
And to the right if coming in the opposite direction.
On that account I tarry in Damascus
And already my friends ask in despair about me.
She is like the pearl of the diver full of splendour, a gem among precious stones.
If thou wast to count her noble ancestors,
Thou wouldst discover her my equal in nobility.
In her stove burn only musk, aloes and incense.
I walked by her side to the green tents on marble passages, through the well-lighted up halls and saloons,
Adorned with flowers and vines,
A tent made of the yamnite stuff,
So spread as to guard against the cold of winter.
And her parting from me was as intimate and sincere
As when a lover parts from his chosen bride."

The Caliph, coming to know of this love affair with his daughter, took the matter very ill and strove to put an end to this unpleasant affair as quickly as possible. But fearing that violent measures would only cause a scandal he sent for Abu Dahbal. He spoke to him, with the greatest kindness and informed him that Yazid, his son, the crown-prince, was greatly displeased with him and for that reason, coun-

* The gate of Jairun is the Eastern gate of the great mosque which is named after the massive fountain in front of it Babul Naufarah. This is the very fountain to which the poet alludes. In its neighbourhood must have stood the palace of the Caliph. *Cf.* Topographie Von Damascus, Vol. I, p. 36.

selled him to leave Damascus as soon as possible. Abu Dahbal took the hint and left Damascus without delay. Still from Mekka he continued to send letters and love poems to the princess. Muawiya then undertook a pilgrimage to Mekka on purpose, sent for the poet and asked him whom he would care to marry among the ladies of Mekka. When the poet named the person, Muawiya took upon himself to negotiate the marriage and gave 1,000 *dinars* as dowry to the bride and granted to the poet an annuity. Abu Dahbal married her and then for ever gave up his poetical effusions of love. From this it is apparent how different were the customs and ideas of those times to what they are in the East at present. An Oriental Sultan of later times would have made an end of the poet who had dared to carry on an intrigue with his daughter. Still instances of lovers are not wanting at the Omayyad court, whose end was not quite so happy as that of Abu Dahbal.

I shall cite here a very characteristic example. In Mekka, in a large circle of poets, singers and musicians, lived a young man named Waddáh, renowned alike for his fine looks and poetical talents. A number of gallant adventures made him all the more interesting and he prided himself not a little therein.

I shall here cite a poem which might be reckoned as one of his finest achievements in this sphere :—

" O! Rauda! thy lover is early awake,
His heart is heavy and patience he has none.
She answered: Enter not the precincts of the house,
My father holds honour sacred.
I said: I will bide my time,
My sharp sword affords me protection.
She said: The castle and the walls divide us.
I replied: The way I would discover.
She answered: The waves separate us.
I rejoined: Indeed! I swim well.
She answered: My seven brothers guard me.
I replied: I am a hero full of courage.
She said: Between us is a lion.
I replied: I, too, am a lion when in anger.
She said: Consider! God sees us.
I answered: God is forgiving and merciful.
She replied: I warned thee in vain! but
Be ready, when the guards are asleep,
Remain here, like the dew of the night, when no one is watching or looking after."*

When Walid I undertook the pilgrimage to Mekka with his wife she saw Waddáh, the fearless poet and favourite of women and she fell in love with him. Waddáh responded and composed some of his finest poems about her.

* Aghani, Vol. VI, p. 35.

When she went back to Damascus he followed her and she granted him admission into her apartments. Whenever she feared detection she concealed him in a large wardrobe, a neverfailing article of furniture in every Damascene household, which overlaid with mother-of-pearl and ivory is at once useful and ornamental.

It appears that the Caliph, at last, got wind of this affair and felt suspicious. He surprised his wife by an unexpected visit when Waddáh was with her. She had scarcely time to conceal him, as was her wont, in the wardrobe. In the course of the conversation, the Caliph discussed the arrangement of the room and finally begged her to give him permission to choose a piece of furniture. This permission he received, and the Caliph pointed to the wardrobe in which Waddáh was concealed.

The princess maintained complete self-control and did not in the least betray herself. And Walid had the wardrobe, straight away, brought into his room. There he had a deep pit dug in which he deposited the wardrobe. Then he loudly called out, "Something came to my ears. If it be true, I bury with this wardrobe for ever the object of my suspicion and make it disappear for ever. If, however, the report is false we merely bury a wooden wardrobe."* Then he caused the pit to be filled

* Aghani, Vol. VI, p. 32; Vol. XI, p. 49.

with earth and had a carpet spread over it. To his wife he never mentioned the incident. Of Waddáh nothing was heard of again. A second time the wife of the Caliph visited Mekka but in quite a different style. She exposed herself to no strange glances and observed the severest seclusion, and in this manner returned to Damascus.

It is apparent that the position of women at the court of the Caliph, was entirely different at that time to the deep degradation which later on fell to the lot of the fair sex in Muslim countries.

Even in state affairs, the final decision was often pronounced by women and the wife of the Caliph was, at times, the real ruler. Thus Abdul Malik was completely under the influence of his fair and self-willed wife Atika, a grand-daughter of the Caliph Muawiya. Once she got angry with the Caliph and would not hear of reconciliation. She locked the door against him and obstinately refused him admission. This made the Caliph thoroughly unhappy and he, in vain, devised means of reconciliation.

Thereupon a courtier offered to square up matters and Abdul Malik assured him a princely reward in the event of success. He went to Atika and related, in bitter tears, to her the misfortunes of his two sons; one of whom had killed the other, for which the Caliph had

ordered the surviving one to be executed and he assured her that only her speedy intervention could save him from the judgment of death already passed upon him. The soft-hearted Atika was so deeply moved, that in spite of the dispute with her husband, she decided to go to him and beg for mercy. The prince played his part admirably. He raised at first great difficulties and concluded by granting everything, for the love of her beautiful eyes, and thus the reconciliation of husband and wife was effected. The clever courtier, whose touching story was a pure invention, received from the Caliph an estate with complete *fundus instructus*, in addition to it 1,000 *dinars*, and annuities for his sons and members of his family.*

Under Walid II, for the first time, commenced the actual *harem* system. He, in imitation of the Byzantine custom, introduced eunuchs into his household.† From that time forward these unfortunate creatures played, at the Oriental Courts, a conspicuous part as confidential servants and custodians of female honour. These eunuchs were obtained from the Greeks who practised the abominable trade of mutilation and trafficked

* Aghani, Vol. II, p. 140.
† Aghani, Vol. IV, p. 78.

in the victims of their avarice. A learned Arab, of the third century of the A. H., Jahidh, the well-known rationalist, speaks of it with the greatest indignation.* Just as the Caliphs borrowed from the Byzantine court the horrible custom of employing eunuchs for the inner appartments of the palace, so they imitated, in many ways, the practices of the Persian sovereigns and their court etiquette, with which the Arabs became fully acquainted as soon as they had conquered Iraq and the rest of the kingdom of the Sassanides. It was the use and enjoyment of wine chiefly, which, in spite of the prohibition of the Qur'an, took deeper and deeper root at the court of Damascus. At first they drank boiled juice of grape (tila) or a very innocent drink, borrowed from the Greeks, called "rosaton" which, like rose-sherbet is, to this day at Beyrut and Damascus a very favourite drink and is prepared with sugar-candy dissolved in water and cooled with ice in summer. The ladies of the royal family were especially fond of this drink. Even in later times at the treasury at Baghdad a crystal cup of large circumference was shown as a curiosity, in which Umm Hakim, the wife of the Caliph Hisham used to take her "rosation."†

* [Khuda Bukhsh, Islamic Civilization, pp. 85 and 86.]

† [Aghani, Vol. XV, p. 48; Khuda Bukhsh, p. 86. Tr.]

But very soon people went beyond this. It is said that the old Persian kings used to indulge in wine every third day. Not to speak of Bahram Gur (Bahram V), Artaban and Sapur enjoyed it daily. Yazid I, the second Caliph of the Omayyad dynasty, imitating them, got drunk daily. He is said to have scarcely ever been sober. Abdul Malik gave himself up to this enjoyment once a month and then disburdened himself, like the Roman drinkers, by the use of emetics.

His son, Walid I, drank every second day. Hisham held his drinking-party every Friday after Divine service.*

With these wine-parties, becoming more and more frequent, music went hand in hand. Singers and musicians were sent for and helped the passing away of the time. It was similarly a custom, imitated from the Persians, that at such evening entertainments the Caliph sat in the middle of the saloon where a curtain was let down, which separated him from the courtiers, singers and musicians.† The passion for song and music very soon degenerated into a wild craze. They spent immense sums of money

* According to Aghani he abstained and even condemned the enjoyment of wine. Vol. V, p. 167, but see Qutb-us-Surur, I, Fol. 114.

† Qutb-us-Surur, I, Fol. 106 et seq.

on famous singers and musicians who were summoned to the court from the farthest provinces. Mekka especially, was the seat of the earliest school of Arab music.* For fabulous sums they purchased male and female slaves, especially those accomplished in music and some Caliphs indeed carried this passion to madness.

Yazid II summoned from Mekka to his court Ma'bad, the most celebrated singer of the time. When he had concluded his first song, the Caliph was so delighted with it, that he jumped up and danced round the saloon until he fell down unconscious. The female slaves hastened to him, raised him up and carried him to his bed-room.† Two female singers, Habbaba and Salama, had so great an influence over him, that when the former died he fretted to death.‡ Walid II excelled all his predecessors in folly and wickedness. His tutor is said to have been an atheist, a Zindiq, who taught him to drink wine and led him to despise religion.§ He was only very exceptionally sober

* [Khuda Bukhsh, p. 13, note 3.]

† Aghani, Vol. I, p. 33.

‡ De Goeje, Frag. Hist. Arab., pp. 76-81; Cf. Qutb-us-Surur, I, Fol. 143.

§ Aghani, Vol. II, p. 78. [Cf. Khuda Bukhsh, p. 96].

and even as crown prince he indulged in the wildest pranks.

He openly made love to daughters of influential men and sang of them in poems, which on account of the position of the author found wide circulation, and which placed the ladies and their families in the most painful embarrassment.* Once he took into his head to exchange his dress with that of a peasant, who happened to be driving a donkey loaded with two bags of oil, in order to get into the inner apartment of the house where the object of his passion resided. She was very highly connected. As oil-seller he obtained admission into the house, where the girls gathered round him, with their vessels. Thereupon one of the chamber-maids looking him in the face cried out in utter confusion to her mistress, "Salma! Look at him; how like Walid is he!" "By God!" called out Salma, quickly veiling herself, "it is he!" "Get away with thy oil," shouted the girls, "we shall buy nothing of thee." Hisham his uncle often warned him against these jokes, which so ill became the future Caliph. But it was all in vain. In the year

* [The prophet had a sincere aversion for poetry. Margoliouth, Mohammed, p. 60. Goldziher, M. S., p. 53. Vol. I. The ancient Arab poetry is full of love intrigues and at the time of the prophet, poets freely sang of their amours with respectable women. Omar forbade and punished this. He punished Hutiah, the famous poet of his time, for writing satires. See Shibli, Al Faruq, Part II, p. 271. Tr.]

110 A. H., Hisham appointed him the prince of the pilgrimage, *i.e.*, the leader of the pilgrimage caravan to Mekka. It was a post of honour which was usually conferred only on the highest dignitaries. Walid accompanied by a large retinue went with a princely splendour. He took his dogs with him and even wanted to pitch a tent on the roof of the Ka'bah to drink wine with his companions. He completely ignored his religious duties and instead of himself sent a client to lead the public prayer.* His conduct provoked such indignation that Hisham, wishing to declare his succession forfeited, desired to appoint his own son Maslama as his successor.† He even deprived him of his portion. Walid now retired to the desert, surrounded by an intimate circle of drinking companions and friends. Frequently, however, there came to Damascus poetical effusions of anger and hatred directed against his uncle Hisham, the reigning Caliph. He composed, when his pay was stopped at the instance of the Caliph, the following poem :—

"I see thou art forcibly building on my pasturage,
Hadst thou been wise thou wouldst have destroyed what thou hast built.

* Qutb-us-Surur, I Fol. 167 [Muslims held the clients in great contempt and genuine Arabs used to say, "Three things if they happen to pass before the person praying cancel the prayer; these are a donkey, a dog and a client." Khuda Bukhsh, p. 79].

† Aghani, Vol. I, p. 102.

Thou leavest for thine a legacy of hatred and venom,
On thy death they will rue thy deeds.

He said to the members of the ruling family, his relatives :—

Leave unto me the slim Salma, wine and the female
singers and the cup; this is all that I desire.
As long as I pass my days in the sandy valley of Alij
in the embrace of Salma, I need no more.
Take your throne, may God never protect it!
I give not a farthing for it.

Hisham died unexpectedly and Walid succeeded him. But he did not care to live in the capital and retired again to his pleasure-castle (Najra) in the desert, in the neighbourhood of the modern village Quryatain and there lived as he pleased.

Drinking companions, musicians and singers formed his court. The report of an eye-witness, who was admitted there, has come down to us. He relates as follows: I found the Caliph on a soft cushioned throne. He was dressed in two yellow coats and round the waist he had a girdle and on the shoulders a saffron-coloured mantle.*

* It is very surprising that the yellow colour which was so very much liked by the Arabs was also among the Indians the colour of the royal dress. Only the king and his family would wear yellow garments and so was the case with the silken dress, as among the Caliphs. Red, among the Indians, was, on the other hand, the colour of death and for this very reason we read in the stories of the Arabian Nights that when the king appeared in an entire red garment, people thought he had to pass a penal sentence. The executioner, accordingly, was also dressed in red.

With him were Ma'bad, the singer from Mekka, Malik ibn Abi Samh* and his freed-man, Abu Kamil. The Caliph let me stand some time, unobserved, until my embarrassment was laid to rest. Then he commanded me to recite the poem, the first verse of which runs thus :—

Is it death and its threats which have filled me with grief (*lit.* pain)?

I obeyed and when I had concluded the poem, he ordered the cup-bearer, Sabra, to hand me a drink. He gave me three cups, one after another, which lit me aglow from top to bottom. Then the Caliph wished to hear a song of Malik, which was followed by a second and a third one. At last he got into such a good humour that he called out : "Sabra Sabra! Give unto me the purse of Pharaoh." They brought him a bumper bent like the horn of a goat and he emptied it twenty times over. Then came in the high chamberlain and announced the man, whom his Majesty had sent for and who was at the door. The Caliph immediately called him in. A youth of the most beautiful features was ushered in. He had but one fault, his feet were somewhat turned in.

* [Abi Samh was a pupil of Ma'bad. He was one of those who secretly believed in the right of the family of Hashim to the Caliphate. He died about 137 A.H. (754 A.D.). Caussin De Perceval, Les Musiciens Arabes, p. 501. Tr.]

"Sabra" cried out Walid "hand him a cup." The cup-bearer hastened to obey. Thereupon the Caliph asked him to recite a poem, then a second, the first verse of which ran :—

> There came the phantom, blessed be it! A thousand times, the picture of my Zainab.

Ma'bad could not control himself and called out: "O Prince of the faithful! I have travelled in my old age, from Mekka to thy court, and thou makest me stand like a scared dog and hast only ear and eyes for this youth." "By God," replied the Caliph, " I have not failed to appreciate, O Ma'bad, either thy age or thy merit, but the song of this stripling has so fascinated me that, I have forgotten everything."

And this youth, who evoked such an enthusiasm, was none other than Ibn* 'Asha of Mekka, who soon displaced Ma'bad from his foremost rank and was acclaimed as the first singer of his age. He was once with Walid and sang :—

> I caught sight of beautiful maidens on the morning of the pilgrimage,

* Aghani, Vol. II, p. 65. [Caussin says that Ibn Asha was a native of Medina and the son of an unknown father and of a head-dresser called, Asha. Hence he was called Ibn Asha. He was the pupil of Jamil and Ma'bad. He died between 152 and 126 A.H.—about 743 A.D. Tr.]

Who quickly chased away from me [the thought of joining in religious duties].
Bright [were they] like stars, when night sets in,
Which in a wide circle illumine the moon.
I went out in order to gain a pious reward,
But returned home with sins pressing heavily on me.

Walid was delighted with it. He cursed and blasphemed and called out: "O cup-bearer! give me the fourth heaven." He emptied the cup at a draught, and commenced swearing by his ancestor Abd Shams, and asked the singer to repeat his song. And many times, indeed, did he implore him, by his ancestor, to repeat the song, and this continued until he fell into greater and greater ecstacy. At last he jumped up, embraced the singer, kissed him, pulled off his own garment and flung it at him, as a mark of honour. Half-undressed the Caliph remained, until the slaves brought him another garment. To crown all he gave him 1,000 *dinars* and a mule to ride back home.*

One of his first acts, as a sovereign, was to summon to his court at Damascus the singer Ma'bad from Mekka. We shall here give the description of Walid's first meeting with him; it offers a characteristic picture of the life then led at the palace of the Caliph. The story comes from an eye-witness. When Ma'bad arrived he was immediately taken to the palace. He found

* Aghani, Vol. II, p. 72.

the Caliph sitting in a large saloon, in the centre of which was a marble basin filled partly with water and partly with wine. The Caliph sat behind a thin, visible curtain, and the saloon was divided into two unequal halves. Ma'bad was asked to sit and sing on the other side of the water-basin. He began with a love song. It made such an impression upon the prince, that he tore the curtain open, cast off his perfumed upper garment and plunged himself in the water-basin, out of which he took a draught. The slaves, in the meantime, hastened to fetch a new dress, scented it with perfume, and the Caliph again seated himself and ordered Ma'bad to sing on. He took the lute and began—

"O thou deserted hut, respond to my love-sickness,
When thou seest me as a worn pilgrim flitting before thee.
May every spring cloud
Bathe thee in its cool showers,
So that I may see thee covered all around with flowers."

The Caliph sent for a purse with 15,000 gold pieces, poured it out into the bosom of Ma'bad and told him: "Return to thy people and keep quiet about what thou hast seen."* Walid was not only a passionate lover of music, but was himself a perfect musician. He composed airs which found large circulation, played on the lute, beating time on a drum with

* Aghani, Vol. I, p. 27.

such mastery, that a musician by profession could not do better.* Death took the light-minded, pleasure-loving prince, by surprise, at Najra. An Omayyad prince who had silently gathered around him many supporters, took Damascus by a bold stroke, and the rebels surprised the Caliph in his country residence. He fell a victim to their conspiracy, but died with greater courage than his easy and gay life warranted us to expect. His successor allied himself with the bigoted party and affected piety. But with the murder of Walid closed the glorious period of the Omayyad dynasty, insurrections and bloody wars, becoming more and more frequent, put an end to the careless enjoyment of life at the court of the Omayyads.

And with their fall, Damascus ceased to be the capital of the Islamic world. The palaces of the Caliphs, shining with gold and marble, fell into ruins and their very graves were not spared, for the Abbasids, when they wrested the government from the Omayyads, did not so much as respect even their eternal resting places but destroyed them one and all. No grave of an Omayyad Caliph is now known at Damascus. Only in the suburb, which is now called Abr-Atki, in the vulgar dialect of Damascus, there is a single grave, of fairly modern appearance, which is

* Aghani, Vol. VIII, pp. 161 and 162.

pointed out as the grave of Atika—the daughter of the Caliph.* Muawiya's grave is said to have been at the southern wall of the great mosque but every trace of it has disappeared. Only the place where Yazid I is buried (whom the Shi'ites persecute with an implacable hatred, account of the murder of Husain) is still marked by a gigantic hillock of stones, for the Persians consider it a sacred duty to cast a stone at the grave of the blasphemer and the murderer of the family of the Prophet.†

Once and once only happier days dawned on Damascus when Al Mutawakkil, the tenth Caliph of the Abbasid dynasty, transferred his residence there, but as the climate did not suit him he left it, after a short stay of two months and returned to Iraq.‡ Damascus, thenceforward, sank into a provincial town, where an Abbasid governor had his seat. When the dynasty of the Tulunides and later on that of the Ikhshidides came into power in Egypt, Damascus fell under their rule. On the conquest of Egypt by the Shi'ite ruler of North Africa, it passed under the Fatimides. And

* Topographie Von Damascus, Vol. II, p. 22.

† Topographie Von Damascus, p. 20. It appears, indeed, that the grave which is now pointed out as that of Yazid I, is really the grave of Yazid III. It is quite clear from the passage in Mas'udi, Vol. VI, p. 19. It may be that both Yazid I and Yazid III were buried in the same court-yard of the town gate.—Bab-us-Saghir.

‡ Weil, Gesch. der Chalifen, Vol. II, p. 364.

finally it came into the possession of the Seljuks; but when their empire was dissolved in a crowd of smaller dynasties, the Seljuk general, Tutush, reduced it to subjection. His successors soon became helpless instruments in the hands of their high chamberlain (Atabek) who established his own dynasty in Damascus. These were displaced by the Ayyubides whose greatest hero, known to us through the history of the Crusades, was Saladin, the antagonist of Duke Leopold of Austria and Richard, the Lion-hearted. After the extinction of the Ayyubides, the Moguls, for a short time, held Damascus and incorporated it with their kingdom.* Finally it passed on to the Sultans of Egypt, in whose possession it remained until the Ottomans wrested it from them. But the recollection of the old power and splendour of Damascus yet survives in the memory of its people and has found its correct expression in the bold letters of the proud inscription, which is to be found on the inner roof of the cupola, on the western gate of the great mosque. It is addressed to a conqueror, serving as a note of warning, as it were, to him to forbear from laying hands on Damascus :—

Away from Damascus spur on thy charger,
For even lions are obedient to its behest.

* [See, Rashiduddin, Histoire des Mongols, p. XI, Paris. Tr.]

Should one moon go down between its gates,
    A thousand would rise in its place.
Every one you see passing that way,
    Complains saying, "who rules this land of light?"

V

THE DEVELOPMENT OF GOVERNMENT

ADMINISTRATION UNDER THE OMAYYADS.—I

The founder of the Omayyad dynasty, whom Mohamed called a poor glutton and who was without a farthing in his pocket,* was appointed by Omar Governor of Damascus. He was, indeed, invested with very limited powers, inasmuch as with him was sent a judge to conduct the public prayers and otherwise to represent the Caliph as the Spiritual Head of Islam. This arrangement was not very flattering to the dignity of the Governor† He soon succeeded, however, in obtaining the governorship of the whole of Syria, and later, for the mere asking, the weak Caliph Othman even conferred upon him large landed properties. After the murder of Othman he raised his voice against Ali, the legitimate Caliph, and when the latter had succumbed to the dagger of an assassin, Mauwiah ascended the throne without rival or competitor. As a genuine Arab Mauwiah shared the weakness of his race—the love of money: but as a shrewd statesman he never hesitated to unloosen the

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* Shurh-ul Muwatta, Vol. III. p. 66.

† Beladhuri, p. 141.

strings of his purse when occasion demanded. In his wars he had obtained the assistance of the conqueror of Egypt by promising him the entire revenue of that country.* By this 'Amr was placed in a far more advantageous position than the one he held previously. It reminds us of the position which the Viceroy of Egypt occupied towards the Sublime Porte. As long as Mauwiah had opponents to fight and to conquer, it is certain enough that he lavished money with a free hand upon influential men.† But once in peaceful possession of power, he thought of filling, as fast as he could, the treasury, which lay entirely at his disposal. He effected a very remarkable measure; a measure which offers a clear proof of the security of his position. He deducted the poor-tax from the fixed annual amounts which, according to Omar's principles, were to be distributed among the members of the Muslim community.‡ This measure, which bears some resemblance to the modern income tax, meant a reduction of $2\frac{1}{2}$ per cent. on the amount of the donations. The entire revenue of the State, according to the fixed principles of taxation laid down by Omar,

* Maqrizi, Khittat, III. 337. The revenue of Egypt was, at that time, 12 million Dirhams: Suyuti, Husnul Muhadhera, I, 69, 70. According to Beladhuri 218, the Khiraj alone in the beginning amounted to 1 million Dirhams, then to 4 million Dirhams.

† Thus Muawiah purchased from Hasan the renunciation of the Caliphate. (Bukhari) ! and paid during the war against Ali a tribute to the Byzantine Sovereign. Mas'udi IV. p. 350.

‡ Shurh-u Muwatta, II, p. 44.

consisted of the following items:—(i) the capitation tax from the subject population; (ii) land tax; (iii) poor tax; (iv) $\frac{1}{10}$ from land in possession of Muslims; (v) tax on commerce and commercial wares; (vi) natural products taken from the subject population; (vii) payments of fixed sums of money by way of tribute for towns and lands retained under treaty of capitulation, and similar payments obtained under compulsion from foreign countries; (viii) one-fifth of the booty falling to the State treasury.* In the earliest times taxes were realized by the commander of the troops, who in conquered lands exercised the highest functions of the Government. For the collection of the poor-tax, however, Mohamed was wont—as also were his immediate successors—to send a special officer, whose duty apparently was similar to that of the Governor. Mauwiah, as a far-sighted administrator, sought to separate finance from political administration. He appointed a Governor at Kufah for political administration, which meant military affairs and leadership of public prayers, but placed the collection of taxes,

* To the State belonged from the legal fifth: (1) fifth of the booty; (2) fifth of the mines; (3) fifth of the flotsam and jetsam; (4) fifth of what was raised by the tax-officers from the movables and wares of Muslims, of the Rayyayahs (subject population) and the foreigners who came to Muslim countries for the purpose of commerce. Finally is to be mentioned the ransome-money which those possessing a fixed abode had to pay. These ransome-monies fell to the State treasury without any deduction and were not regarded as booty. Yaqut, Mujam. Vol. I. p. 51 52.

particularly the land-tax, in charge of a special officer who acted quite independently of the Governor. This officer bore the title of *Saheb-ul-Khiraj*. Attention should be called to the fact that from the very beginning of the Caliphate the policy of complete decentralization prevailed as regards finances. There was no central treasury. The entire taxes of the province flowed into the treasury of the Governor or of any other officer as the case might be specially entrusted with the collection of taxes. Out of the taxes were met the charges of administration, the State annuities, the pay of the soldiers; and only the balance, if any, was remitted to the common State treasury, (Bait-ul-mal-ul Muslemein), or, in later times, to the private purse of the Caliph when the State treasury became the property of the Caliph.* In the matter of revenue Muawiah, being head of the State, had an absolute unfettered discretion. He disposed at will of the revenue of his vast Empire. We have mentioned above that he made over, for life, the entire revenue of Egypt to the then Governor, who defrayed out of it the

* In the more important provinces there must have been a very considerable amount of money in the Provincial treasuries. When Mukhtar conquered Kufah he found in the Government treasury 9 million Dirhams. Ibn Athir IV. p. 187. In the treasury of Bussorah there was when 'Ubaidullah Ibn Ziyad, left the town, as a fugitive 19 million Dirhams. Ibn Athir p. 110, Vol. IV.

When Yazid Ibn Muhallab took possession of Bassorah he found the Government treasury 10 million Dirhams. De Goeje Frag. Hist. Arab, Vol. I. p. 59.

administrative charges and met the pay of the army. With the Governor of Iraq he is said to have made a different arrangement. He gave him the option either of resigning his post or of binding himself down to pay yearly 100 million Dirhams nett to the State treasury after deducting the cost of the army and the charges of the administration.* At that time the Islamic Empire was divided into the following provinces:—(1) Syria with its sub-divisions of Damascus, Kinneserin, 'Urdun and Filistin; (2) Kufah, together with the whole of Iraq (even the Prefect of Rai was appointed by Kufah); (3) Bassorah, with Persia, Sijistan, Khurasan, Bahrain, Oman, probably even Najd and Yamama; (4) Armenia; (5) Mecca; (6) Medina; (7) the frontier of India (Kirman, Sind, Ghazni, Kabul, etc.), (8) Africa; (9) Egypt. To this list is to be added one other (10) South Arabia, which apprently has been omitted from the list by oversight.† For political reasons Muawiah separated the Governorship of Egypt from that of Africa. He would not let them remain without an effective control. Then he separated Khurasan from Bassorah, and later formed out of the two administrative provinces, Bassorah and Kufah, one large governorship; namely, the governorship of Iraq. With the

* Ibn Athir. Vol. IV. p. 116.

† Ibn Khaldun, General History Vol. III. pp. 10, 15, 17, 134; *Ibid.* p. 10.

Governor of Bassorah he associated a police official (Saheb ul Shurta) and a judge. The very same policy, indeed, Muawiah adopted in other provinces. The union of Bassorah and Kufah was, however, of short duration; for Bassorah soon rose to be an independent administrative province, and became the most important province of the Empire. To it belonged Faris (Faristan), Ahwaz, Khuzistan, Susiana, Oman, Bahrain, Khurasan, and Kandabil. The official duties of the Governor were very extensive. For judicial work, the Caliph appointed, however, a special officer (Qadhi). Also a special dignitary was usually appointed to represent him at public prayers, and not infrequently one was sent out to take charge of the finances. With the growth and development of the provinces it became necessary to appoint prefects for particular districts as executive officers of the Government. The appointments of these prefects were effected by the Governor without any reference to the Caliph. The Governor usually chose and appointed prefects: merely the information of the appointment was probably sent to the Caliph. The Governor of Kufah appointed the prefect of Rai,* and that of Bassorah the prefects of Sijistan and the Indian frontier (Sind). But,

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* *Ibid.* p. 4.

according to other accounts, the latter was nominated directly by the Caliph.* When Ziad became Governor of Bassorah he immediately divided Khurasan into four districts † and appointed a prefect for each. As a rule, there was a threefold division of the Government: the political administration, the taxation and the leadership of public religious functions. Each of these different departments was generally held by a special officer. There were instances, however, of the ruler conferring all three offices on one and the same person as a token of marked confidence; for instance, when the Caliph Sulaiman appointed Yazid Ibn Muhallab, Governor-General of Iraq he put him in charge of military affairs, the leadership of public prayers and the collection of taxes. But this astute statesman saw that he had not much to gain by it, and accordingly declined the honour. He anticipated that if he remitted a smaller amount of revenue to the Caliph than his predecessor had done he would, for certain, incur his displeasure. Instead of this, therefore, he applied for and obtained the governorship of Khurasan. During his tenure of office he sent a prefect to Iraq. Yazid practised so much extortion in Khurasan and embezzled so much public money that the Caliph favourably

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* *Ibid.* p. 6.
† *Ibid.* p. 9.

disposed as he was, could not help calling him to account. His successor forced him to give up a large portion of his ill-gotten gains.* Iraq was always reckoned as the most important post, and not merely Khurasan but all Eastern lands up to the borders of India and large portions of East and Central Arabia were annexed to it. Under Hajjaj, not only Khurasan, but even Kirman and Sijistan formed part of the governorship of Iraq; the Governor sending his prefects (Amil) to those districts.† Later when the Governor of Khurasan acquired an independent position he appointed his own prefects in Samarqand, Tukharistan and Transoxiana.‡

To facilitate written communication between the ruler and the Governors which, despite the simple conditions of life, must, owing to the great extension of the Kingdom, have been very considerable, Muawiah created a State Chancery which bore the title of the Board of the Signet (Diwan-ul-Khatam). Every ordinance that issued from the Caliph was copied there in a register; the original was then sealed and despatched. Prior to this open orders were sent out, and it once happened that a man to whom the Caliph had granted 1,000 Dirhams from

* Ibn Athir V, 15, 16, 17, 36, Ibn Khaldun, III, 69, De Goeje, Frag. Hist. Arab, Vol. I pp. 19, 20, 21.

† Ibn Athir IV, p. 362.

‡ Ibu Athir V, pp. 260-61.

the provincial treasury had had the letter read and the amount altered to a higher figure. The fraud, however, was detected when the Governor sent in his account.*

Even the postal system is said to have been introduced by Muawiah in imitation of the Byzantines or the Persians. In any case, it existed in very early times.†

We shall speak of it more exhaustively later. Thus did the first Omayyad fashion his empire and regulate his administration, and it is scarcely to be doubted that the institutions called by him into being continued for long unaltered. His son Yazid I, a gay sportsman and an incorrigible drunkard, neglected his duties as a sovereign, and let things remain as they were. Moreover, he reigned but for a short time. His successor Muawiah II died a few months after him, and the brief reign of Merwan I was so crowded by battles and ruffled by unrest that he had hardly any time to attend to the peaceful work of administration. With Abdul Malik, for the first time, the Muslim Government passed into the hands of a really gifted prince. An acute Arab historian truly observes that among the Omayyads there were only three great statesmen and adminis-

* Ibn Khaldun Vol. III, p. 19. Al Fakhri p. 130.

† Bukhari. The tradition in Bukhari proves this: Kitab-ul-wudu 166.

trators: Muawiah I, Abdul Malik and Hisham.* We have already noted the statesmanlike measures of the first. We now pass on to Abdul Malik. According to the Arab authorities, he is said to have had a thorough knowledge of the traditions (Hadith). We may take it therefore that he received a more careful education and training than his predecessors. But what the Arabs then understood by culture must appear to us exceedingly unsatisfactory. However well he may have known the traditions, the Qur'an and the old Arab poetry, there is still in these studies very little of the elements which ennoble and edify; which enlarge and broaden the mind. In spite of it, gifted natures, even under unfavourable conditions, have proceeded upon their own line of development; and among princes clear judgment, fixed purpose, and firm resolve mean more and are worth more than mere book learning. That Abdul Malik possessed these qualities is clearly evidenced by the unshaken resolution with which he restored order in the province which, after Syria, was by far the most important, and which on his accession, he found in a perfectly disordered condition. Iraq was in complete insurrection, and in Arabia ruled the rival Caliph, Abdullah Ibn Zubair.

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* Mas'udi V. 479; vi. 161.

Abdul Malik first reduced Iraq into subjection. He then turned his attention towards Arabia, because the possession of the holy towns was essential to the consolidation of his rule. Great princes have the happy gift of hitting upon the proper instruments of work. Such an one Abdul Malik found in a man who had been for some time a schoolmaster in the small mountainous town of Taif. This was Hajjaj, the greatest statesman of his age. The Government of Iraq—the most difficult indeed to manage—was committed to his charge. As soon as he had restored order there, in obedience to the order of the Caliph he proceeded with an army to Mecca, and after an obstinate siege took the holy city. In that siege the rival Caliph met with his death. Now was the time ripe for inaugurating the peaceful work of reform. The first and foremost thought of Abdul Malik was to establish common institutions in countries under his sway. In this connection the most important measure was the removal of Persians and Christians from State offices and the appointment of Arabs in their stead.* Thus he deprived the foreigners of the largest share of influence in State affairs, and thus he closed against them one of the richest sources of gain; for the collection of revenue, which in Syria was entirely in the hands of the

*Cf. Mawardi Chap. XVIII, 1. Beladhuri p. 193.

Christians; in Persia and Iraq in those of the Persians; yielded a sure and considerable harvest of gold. This arrangement did not remain, however, operative for long, as men of required training and equipment could not be found among the Arabs. The Christians and Persians, therefore, again secured the most lucrative posts connected with the revenue, but the Arabic language henceforth was introduced in all Government offices, and a considerable number of Arab officers had to be trained and educated for the work. Another measure of equal importance was the introduction of the Arab coinage and the withdrawal of foreign coins from circulation. Until the time of Abdul Malik, coins of the pre-Muslim Governments were in circulation in the different Provinces: in Egypt and Syria Roman-Byzantine gold, silver and copper pieces; and in countries forming part of the *Quondam* Persian kingdom the Sassanide Dirham. In Egypt and Syria the gold coin was issued upon the pattern of the Roman *solidus*; while in countries which had formerly belonged to the Persian Empire the Sassanide Dirham served as a model for silver coinage. These different kinds of coins circulated side by side, but the frequent necessity for exchange caused much confusion and inconvenience. Indeed, the Arabs had early commenced to mint coins. They struck Roman *solidi* of Byzantine stamp with

Arabic or Latin inscriptions (these were the so-called Heraklian Dinars), or silver pieces of the Sassanide type with Pehlevi inscriptions, but they never thought of making these an exclusive standard of coinage. The State apparently exercised no control whatever over the issue of coins. The Governors minted coins quite on their own, and had their names and not the name of the Caliph stamped on the coins. The stamping of the coin was exceedingly unsatisfactory and threw the door wide open for counterfeiting. At the time of Mohamed the Roman gold pieces and the Persian Dirhams were in circulation at Mecca. In commercial transactions they were valued by their weight. According to the Arab account the first who is said to have struck coins was Mus'ab, —the brother of Abdullah Ibn Zubair—the rival Caliph at Mecca. Of Abdullah Ibn Zubair we possess silver pieces bearing his name in Pehlevi character. When Abdul Malik conquered him he personally took over the regulation of coinage.* The need for a fixed standard of coinage was very real and pressing. The extension of the Muslim rule over the remotest countries of Asia and Africa, the knitting to-

*Beladhuri, p. 466. Even prior to this Caliph the Arabs struck coins. Dr. Karabacek possesses a Dinar of the rival Prophet—Musailamah —and Saulcy, in the journal *Asiatique* has spoken of a copper piece of Khalid Ibn Walid. I refrain from making any further observation as Dr. Karabacek, one of the ablest authorities on the subject of Muslim numismatics, intends shortly to publish an exhaustive work on the subject. [Khuda Bukhsh, p. 228, note I.]

gether and renewal of old commercial relations, the increasing exchange and barter of the products and wares of a vast empire required, to be sure, a universally accepted and acknowledged standard of currency. There were political reasons too. In Asia, from time immemorial, the minting of coin had been the exclusive right of sovereignty, and Abdul Malik sought to enforce this right. Moreover, the payment of taxes, as ordained by Omar I, brought to light the necessity for a legal and uniform system of coinage. The sheep was reckoned as equivalent to small coins; while the larger sums were paid in camels. Under Abu Bakr this practice obtained in the payment of the property-tax. In the altered conditions of the times and the rapidly progressing civilisation a ready scale for business transactions was an absolute necessity. These reasons probably induced the Caliph Abdul Malik to reform the currency, in 77 A.H. (696 A.D.). The care and precision with which the first Arabian gold coin was issued is indeed astonishing. It weighed 4·25 grains. The relative weight of the gold to the silver coin (Dirham) was 10 : 7; the actual weight of the latter was 2·97 grains. Abdul Malik's currency-reform was based upon a mixture of Roman and Sassanide nominals. He confined himself to accepting certain nominals from the Roman system of coinage, preserving, at the same time,

the legal dirham introduced by Omar. The Roman *solidi* formed the model of the current gold coins ; while the legal dirhams formed the model of the silver ones. The value of the silver coin at first, in relation to the gold, was 10 : 1 ; later on 12 : 1 ; still later, owing to the debasement of the silver coin, the relation to the gold was 15 and even 20 : 1.

Abdul Malik appears to have considerably improved the postal system. The story runs that Muawiah for the first time introduced this institution ; but, however probable it may sound, it proceeds from a doubtful source.* Yet the fact remains that the postal system was well organized. Relays of horses were provided on the main roads which connected the most important towns of the Empire, and carried with remarkable rapidity not only Government despatches but also travellers. A newly appointed Governor of Khurasan, together with his retinue, went by the mail.† Even troops, in times of necessity, were sent by postal carriages. They carried 50 to 100 men at a time. Under the Omayyad Governor of Iraq, Yusuff Ibn Omar, the expenses of the postal department for Iraq alone cost 4 million dirhams a year. We shall revert to this subject in dealing with the administrative affairs of the Caliphate under the Abassids.

* All Fakhri p. 129.
† Ibn Athir, IV. pp. 352, 356, 374.

The former schoolmaster of Taif displayed, in the most important province of the Empire, an activity no less praiseworthy than that of the Caliph himself.* In the two military colonies of Kufah and Bassorah, the entire population of which were bound to military service, the wildest anarchy prevailed. The politico-religious party of the Kharijites which fought for democratic principles and rejected the ruler of Damascus (for the Kharijites held to the old Arabian principle of election by the people to its extremest degree), devastated the province and repeatedly routed the army sent against it. As soon as Hajjaj assumed the governorship he began by most drastic measures to force the rebellious Kufans to obedience. With much severity he restored order both in Kufah and Bassorah, and enforced the old rule of universal military service on the part of all Muslims of Arab nationality.† In this manner he succeeded in sending out sufficient troops as re-inforcement to the army fighting against the Kharijites, whom he eventually succeeded in conquering.

Fiscal matters in Iraq had fallen into absolute confusion. The revenue under Omar was 100-120 million dirhams, but it now yielded only 40 million dirhams.‡ Next to the devastation

* [On the subject of Hajjaj's pedigree, see Ibn Khaldun's Proleg. French tr., pp. 60 et seq. Tr.].

† Aghani, XIII. 42.

‡ Beladhuri, p. 270.

caused by wars and insurrections, the chief reason for this decrease was the conversion of the great mass of the native population to Islam, whereby the treasury lost the capitation-tax paid by them. Hajjaj adopted in this respect some very effective measures. In order to promote cattle-breeding in this province and encourage agriculture, he prohibited the use of cow flesh, and advanced a sum of two million dirhams to the rural population. Then he restored the connecting canal between the Euphrates and the Tigris* and ordered the converts to pay capitation-tax as they did prior to their conversion; a measure which led to an insurrection of the Neo-converts and their clients. In this insurrection men from Bassorah, old warriors, and readers of the Qurân took part. It is stated that of these rebels,

* Aghani, XV. 98; Ibn Khurdedbah: Journal Asiatique 1865, Vol. V, p. 36; Dimishqui, p. 280. [The Persian Kings very zealously endeavoured to drain the marshes and to lay them out as crown-lands. When any body reclaimed a piece of the marshes he called it after his own name. Under Qubadh there was a great breach in the dam at Kaskar which inundated much land and remained neglected until the time of Au-Nushirwan, who partially repaired the damage. In the year 6 or 7 A. H. severe breaches were again made in the dams and all the efforts of Parvez were ineffectual in setting them right. In the anarchy, during the Arab conquest, the marshy lands grew in extent. The Dehqans could do nothing on their own initiative. First under Muawiah and then especially under Walid and Hisham things changed. Hajjaj built the two canals of Nil and Zabi. He introduced the Indian buffalo in the marshy lands and even supplied Cilicia with them. Owing to his limited means he was unable to do more. He demanded 3 million dirhams for the restoration of the dams. Walid found it too much, but he permitted his brother Muslamah to carry out the plan at his own cost. Maslama, however, made a large fortune out of it. The engineer who made the plan under Hajjaj and Hisham was Hassan-ul-Nabati. Quite incredible is the story that intentionally Hajjaj did not repair the damage done by a great flood at his time in order to punish the Dehqans whom he suspected of sympathy for Ibn 'Ashath. Prof. Wellhausen, Das Arabische Reich und Sein Sturz., p. 157 (note I), and the authorities cited therein. Tr.].

100,000 were actually on the annuity register as pensioned warriors. To express ourselves in modern language they belonged to the Militia or reserves. Besides these, another 100,000, drawn from other classes, made common cause with them. Hajjaj routed the rebels after hard fighting, and with a view to crush the Neo-Muslims and their clients once for all, he had the rebels sent back to their villages; and to make sure that none left the village again without detection, he caused the name of the village to be branded on their hands. (Khuda Bukhsh, p. 82.) Under the administration of this powerful statesman Arabic was substituted for Persian in the tax registers and Government offices, as had already been done in other provinces.* He founded the town of Wasit as a military colony and established permanent military camps at convenient distances between the two already existing garrison towns of Bassorah and Kufah. In this way Hajjaj succeeded, not only in consolidating and strengthening the Omayyad rule in Iraq, but also in restoring and perfecting the military organization of the Arabs, and this indeed to such an extent that he was able, without any difficulty, to send an army of 6,000 men for the conquest of the Indian frontier (Sind). The cost of maintaining this army was amply covered by

* Beladhuri, p. 300.

the revenue of the newly-acquired province which yielded yearly 120 million dirhams; while the army charges amounted to 60 millions only.* Of the two immediate successors of

* Ibn Athir, IV. 425-7. [Prof. Wellhausen's estimate of Hajjaj. "Zaid-bin-Abihi and Hajjaj were the two great Viceroys of the Omayyads in Iraq whom the Abbasids justly envied. Both of these generals looked upon themselves not merely as holders of lucrative incumbencies but as upholders of ordered Government and representatives of the Caliph, and they repaid the confidence reposed in them by their ruler who granted them large powers and conferred upon them their office for life by conscientiously discharging their duties without in the least troubling themselves about the favour or disfavour of public opinion. It is easy to compare the two. Zaid had already attained a high position before Muawiah had sought and acquired his alliance. Hajjaj, on the other hand, may be regarded as a creature of Abdul Malik. Zaid knew how to keep the native tribes successfully in check by the help of one another and to use them in turn as his own instruments of work. Omar B. Abdul Aziz admired him for keeping Iraq in order without ever seeking the assistance of the Syrians. Hajjaj, on the contrary, could only maintain the foreign rule with the assistance of the Syrian troops. This was probably due to the relation between Syria and Iraq having become very strained. In his achievements Hajjaj was not behind his predecessor. He had so fixed the policy of the Government that even after his death there was no alternative but to follow or reject it. His administrative measures regarding coinage, weights and measures, taxation and encouragement of agriculture were epoch-making. He had difficulty in bringing the revenue to the necessary level owing to the unceasing wars which had disturbed and even exhausted the resources of the country, but the treasury was never empty. (Tabari, 1062; Anon, 217). His word had the force of Law. He prided himself on the elegance of his Arabic style and diction, and did not like to see himself surpassed in it. (Tabari, 1132.) It was not, therefore, without reason that the orator in his inaugural address at Kufah adorned his language with studied rhetoric. In no circumstance did his courage fail him. In adversity it rose to its highest pitch. His iron hand bore no silk gloves and his bearing was neither pleasant nor very inviting either. He was harsh and occasionally severe but never cruel, petty-minded or miserly. He let off, with mercy, a distinguished rebel who had been taken captive, because he did not try to make excuses but spoke the truth (Tabari, p. 1112). He acknowledged the greatness of the false prophet Maslamah and the Anti-Christ Mukhtar, and even openly admired the latter. He pointed, without hesitation, to the thunder which rumbled over the Holy City when he was besieging it, as an announcement of his victory. He was less superstitious than his contemporaries, but he is not on that account to be set down as a hypocrite. In life and death he had a clear conscience. That without fear or hesitation he cleared the nest of rebels at Mecca and refused to show any mercy to them was naturally sufficient to ensure his condemnation in Hejaz and Iraq. Other crimes, imputed to him, were pure inventions and offsprings of malice, which did not even spare him

Abdul Malik, Walid and Sulaiman, there is little to record in the way of administrative matters. Walid appears to have specially pursued religious and humanitarian aims. He took away half of the Church of St. John, which had remained in the hands of the Christians, and had it beautifully adorned by Greek workmen whom he sent for from Byzantium. He interested himself generally in the improvement and enlargement of mosques. He assigned to the lepers a separate asylum and even granted them pension. He ministered to the wants of the blind and indigent. He established hospitals. (De Goeje, Frag. Hist. Arab., Vol. I, p. 4). The administrative machinery, on the whole, was still very simple. The following were the chief offices: *Diwan ul Khiraj* (the Board of Land-tax) which was in the nature of the Department of Finance; the *Diwan ul Khatam* (Board of the Signet) where every ordinance issuing from the Caliph was sealed with his seal. In the East, as is well-known,

after death. He is said, for instance, to have slaughtered at Bassorah, according to an anonymous report, 120-130,000 men after the battle of Zavia. Von Kremer and Van Vloten apparently believe in these absurd statements. According to their favourite theory they find in *Mawali* the victims of Hajjaj's blood-thirstiness. But the old and genuine traditions point to the contrary. Both at Bassorah and Kufah he ordered a general amnesty in favour of those who gave up fighting, and was always most anxious to restrain the excesses of the Syrian troops in the conquered towns. Only the defiant, who would not accept pardon, he occasionally executed, as is illustrated in the cases of the Quraishites and other leading rebels in Wasit, who were handed over to him by Yazid ibn Muhallab. Even in those cases he respected private rights, and did not confiscate the property of the wealthy Mawla Feruz Hussain, who testified to the fact in his last moments. (Panegyric upon Hajjaj by Jarir and Farzdaq.) Translator].

letters and despatches were not signed, as is the case up to the present day, but were simply impressed with the seal in ink or water-colour ; *Diwan ul Rasa'il* or the Board of Correspondence, where all Government communications were drawn up ; *Diwan ul Mustaghillat*, or the Board of Revenue, where all the different taxes were received, registered and calculated ; for instance, rent for the use and occupation of public lands.* The native historians deliver quite a characteristic verdict on the two last-mentioned Caliphs. Under Walid, they say, the favourite subject of discussion in the capital was architecture. Under Sulaiman, people generally amused themselves with the luxuries of the table and the society of pretty women. Under their immediate successor Omar II, severe religious tendencies predominated, and passages from the Qur'an or texts from traditions formed the subject of popular conversation. The short reign of Omar II marks a turning-point in the inner † development

* On Mustaghillat : Its meaning Istakhri, Ed. De Goeje, p. 158 ; Cf. De Goeje, Frag. Hist. Arab., p. 14.

† [Van Vloten on Omar II, pp. 27-28. 'Recherche Sur la Domination Arabe.' "The reforms effected by Omar II have been very unfavourably judged by Western writers. His object was to destroy the obstacles opposing the spread of Islam. He accorded to the *Mawali* rights and privileges hitherto enjoyed alone by Muslims of Arab nationality ; that is to say, he exempted them from the tributes paid by the unfaithful and allowed them the State annuity. It is to be at once conceded that the circumstances required measures entirely different from an exact adoption of the policy of Omar I. The measures adopted by this Omayyad Caliph served only to arouse hopes which the Government was unable to satisfy. In Iraq the new

of the Government. He was a religious enthusiast who strove with all his heart and soul to imitate the Patriarchal system of the Caliph Omar I. Entirely under the influence of the fanatical party, he committed the grossest follies, and enforced measures fatal to the permanence of his own dynasty. One of the first acts of his Government was to disfigure the great mosque of Damascus, which was splendidly adorned by Walid. The inner and the

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system of annuities exhausted the treasury which had suffered at Khurasan considerable losses by the abolition of the Jaziya. These disorders led, after the death of the Caliph, to a fiscal policy more unjust than ever. In spite of it, it is necessary to guard against too severe a verdict against the measures adopted by Omar Ibn Abdul Aziz. For I consider it just to address the following questions to those who are disposed to take the side of Hajjaj as against this Caliph. (1) Was it not to the interest of the Omayyads to attempt an equalization of races whose unequal position and status threatened the ruin of their Empire ? (2) Even if it was not to the interest of the Omayyad dynasty, did not the interest of Islam peremptorily require such an equalization ? The last of these questions will not, I hope, be disputed. The military organization of Omar I had already done its task before the reign of Omar II. Under the Caliphate of Walid the Arab conquest had reached limits which could no longer be extended or overstepped. The Pyrenees to the West and the Great Central Asiatic tableland to the East were natural barriers to the arms of Islam. It seemed that the time had come for internal reforms. Omar II, being convinced of it, opposed fresh conquests. The real weakness of the Caliph was his religious conservatism. Entertaining a pious regard for the memory of Omar I, his namesake, he would have no reforms other than those based upon the principles of the second Caliph. But circumstances called for a complete abandonment of that system. Other employments were necessary for the Arab troops stationed in the provinces in order to render them independent of the State annuity. Instead of granting lands to garrisons, Omar's law forbade their acquisition, and instead of gradually withdrawing the annuities, they were even extended to the Mawali. This policy, which contributed to the exhaustion of the treasury, stood in the way of the realisation of a measure useful in itself exemption of the *Jaziyah* from the new converts. Looking at it from this point of view, the Government of Omar dealt a more fatal blow to the prestige of the dynasty than even the measures of Hajjaj. The hopes that had been raised did not in the least abate, and the non-Arab population awaited their deliverance with all the more impatience when the fiscal reaction (particularly under Hisham) appeared to them more and more intolerable. Translator.]

outer walls were embellished with charming mosaics representing on a gold foundation landscapes and animals which are still to be seen in some isolated places. When I last visited this mosque in the beginning of May 1871, I found in the mosaic work a remarkable similarity to that of the Church at St. Marks in Venice. Omar II had the walls covered with tent-cloth and caused the gold chains of the lamps to be melted down. The lamps thus lost their brilliance and splendour. He believed that all this show and splendour were calculated to distract the mind and divert it from full concentration in devotion.* Acting upon such fanciful religious ideas he passed a measure which deeply affected every condition of life. He desired to go back to the system of Omar I and to prohibit Muslims from owning or acquiring landed property.† In the first year of his rule, A. H. 100 (718-719 A. D.), he issued an ordinance in which he not only left untouched but even confirmed possession of landed property which had passed into the hands of Muslims prior to this date with the consent of the earlier Caliphs. It stands to reason that proprietary rights in such properties could not be disturbed, abridged, or destroyed, without seriously disordering and dislocating

* Khuda Bukhsh, p. 99.

† *Ibid.* pp. 119-122.

every existing relation. Muslims holding such landed property, however, had now only to pay the tenth, and not the capitation-tax which the former non-Muslim owners had to pay. Such was the purport of the proclamation which the Caliph issued. It prohibited payment of the capitation-tax, paid by the earlier non-Muslim owners of the land, by the Muslims who stepped into their places. They were directed to pay only the tenth. At the same time, he announced that every purchase of land concluded by a Muslim, after the year 100 A. H., was null and void. This law remained in force after Omar II's death, and continued even up to the time of the Caliph Hisham. Only later did it fall into disuse. Omar II, at the same time ordained that the professors of tolerated creeds should not sell their landed properties ; but despite this, cases came to light of Muslims acquiring landed properties from the subject races. In the event of detection both the buyer and the seller were punished. The purchase-money was forfeited as penalty to Government, but the land was restored to the Rayyah.* There is no doubt whatever that these measures, affecting as they did every condition of life, had a very pernicious effect. It was very pleasant, indeed, for the Muslims who had acquired

* Ibn Asakir.

landed properties earlier, as they had now no capitation-tax to pay. But the greater number of them, finding themselves excluded from the possibility of acquiring land, felt aggrieved by the new policy which seriously affected the finances. The tenth was a much smaller figure than the capitation-tax. The State income accordingly, at one stroke, diminished very considerably. But the Caliph even went further in his pious follies. Immediately after his accession, he hastened to write to the Governors to refund from the State treasury all monies obtained in an illegal method. It is very doubtful if the persons really aggrieved received their dues. The fact, however, remains that there was a deep ebb in the Government treasury. The treasury of Iraq was so completely drained that funds had to be sent for from Damascus to defray the administrative charges; whereas formerly that province remitted large sums to the central treasury.* Yet another measure highly prejudicial to the Government treasury, was that Christians, on conversion to Islam, were exempted from land-tax, like Muslims, and had only to pay the tenth.† This very perceptibly diminished the State revenue. It dried up the most prolific source of State revenue ; *viz.*, the land-tax paid

* Nawawi, Tahdhib, p. 460.

† Ibn Athir, V., p. 44.

by the subject population. He even removed the capitation-tax from all converts to Islam.* His Governor had introduced the land-tax in Yaman. Omar II, being informed of it, ordered him to discontinue it at once, and levy only the tenth or half of the tenth. The Governor, on the contrary, had even exacted from the Christians taxes in respect of deceased members of their community. Quite in keeping with his ideas was the order which he addressed to the Governors, forbidding the employment of people of other faith than Islam in the account or finance departments, or in any other public capacity whatever. This pious ruler, the ideal of the orthodox 'Ulemas' and the populace, destroyed the very foundation of his Government by trying to restore conditions unsuited to the spirit of the age. To such an extent has party-spirit glorified the character of Omar that even modern European writers have completely gone astray in judging him. Probably the information about his humanitarian measures goes back to similar doubtful sources. The story runs that he removed all taxes and duties (Mokus); built caravansaries at fixed distances along the entire military route as far as Khurasan; severely enforced the general distribution of the annuities, and assigned even to infants donations from the

* Ibn Athir, V. 37, Comp. also pp. 40 and 50.

|| Maqrizi, Khittat, pp. 77, Vol. 1.

State Treasury.* He is also said to have ordered that prisoners should not be kept in chains, lest it might interfere with their prayers (Nawawi, Tahdhib, pp. 468, 478). A beautiful memorial of his charitable disposition, however, is preserved in a document which he sent to his generals. "I have heard it said by my father that the messenger of God, on sending an expedition used to say: 'Fight in the name of God and in the path of God. Fight those who believe not in *Allah*, embezzle nothing of the booty, swindle not, mutilate not, and kill not children.' Inform the troops of this. So help thee God! Peace be with thee!" (Sharh-ul-Muwatta, II, p. 297.) These precepts rest upon a similar ordinance of Omar I. By far the most dangerous of his weaknesses was the open partiality which he showed towards the bitterest opponents of the Ommayyad dynasty, the descendants of the prophet, who looked upon themselves as legitimate successors to the Caliphate, and regarded

* These *mokus* were: royalties for coining money, New-year gifts and presents on the feast of Mehrjan, paper-tax, sluice-money, marriage dirham and Khiraj when levied upon subject population who had accepted Islam. [In connection with this note, Prof. Margoliouth has kindly written to me: Von Kremer is evidently translating on p. 178, Vol. I, the words of Ibn-Athir; V. 23 (ed. Cairo). This latter is taken from Tabari; II. 1367 where Ujurul Futuh is altered in the text to Fu'j. However, in De Goeje's glossary, Futuh, is restored and he renders it 'Canal for irrigation.' You will be safe in rendering '*Aufsperrgelder*' money for water or if you, prefer it 'Sluice money.' Whether '*Messbeamten*' is a correct rendering of *Dharrabin* seems to me doubtful. Perhaps it should be royalties for coining money. The paper-tax is also probably a royalty for providing forms to be used for various purposes corresponding with the stamps now in use. Tr.

the ruling family as usurpers.* This piece of folly contributed more than anything else to estrange his family from him. Possibly there was some foul play in his sudden death. He separated the upper parts of Mesopotamia from the Governorship of Iraq, and made a special province of it; namely, the province of Jazirah.† The beginning of the decline of the Ommayyad dynasty may be fixed from his Caliphate. By his reactionary policy he ruined the machinery of Government, painfully and laboriously built up by his predecessors. None of his successors could again repair the damage done. Henceforward the royal house of Omayya was strikingly lacking in men of towering talents. Omar II's immediate successor, Yazid II, was a hopeless drunkard, and stood absolutely under the influence of his *Harem*. Only Hisham and Merwan II were endowed with superior qualities. The former, as an able administrator, not merely held the Empire together but even added lustre to it, in spite of the tribal feuds, recurring insurrections, and the ever-growing bold and audacious intrigues and instigations of the descendants of the Prophet, which had shaken the Omayyad Empire to its depths. He sent out to Iraq a Governor

* Ibn Athir, V. 30; Masudi, 421. [On Omar II. See Goldziher Muh. Studien, pp. 29, Vol. II; p. 34; p. 74. Omar II forbade drinking of wine. Culturgeschicht. Streifzüge, p. 27, note 3. Omar II returned Fadak to Ahl-Bait. Ibn Athir, Vol. II, p. 172. Wellhausen, Das Arab. Reich und Sein Sturz, pp. 186; 188. Tr.]

† Ibn Athir, p. 40, Vol. V.

(Khalid-ul-Qisri) of Christian parentage who displayed extreme clemency to faiths other than Islam, and even appointed non-Muslims to important Government offices. This naturally stirred the wrath of the fanatical party; especially of the theologians. Khalid-ul-Qisri was free from religious prejudices; a quality rare in statesmen of those times. In this Khalid resembled his great predecessor in the Governorship of Iraq, the schoolmaster of Taif. Precisely for this reason the people of Iraq looked upon him with intense hatred. They said of him that he declared himself ready even to pull down the holy temple at Mecca, provided the Caliph so commanded,* and the poet Furazdaq who had a very evil tongue spoke of him :—

May God curse the back of the camel
Which, from afar, brings us to Khalid,
How could he be the leader of the prayer of the faithful,
Whose mother was an idolatress ?†

And in another poem :—

Bring the message to the prince of the faithful.
Hasten ! That God directs thee to recall Khalid.
He has built for his mother a Church with a Cross.

* Aghani, XIX., etc., 61.
† [See De Goeje, the lines upon Khalid, Frag. Hist. Arab, Vol. I, p. 83. Tr.]

And pulls down Mosques out of hatred against
God.*

Even under Hisham the old political division of the Caliphate according to Governorship continued. The Governor of Iraq administered Khurasan and the Indian province (Sind), for which he appointed prefects.† But the Omayyad Court was governed by most unwholesome influences. As early as Yazid II, the Governorship of Iraq—the most important Governorship by far—was given away under the influence of the female favourites of the Caliph.‡ A further evil gained ground which, later on, led to most disastrous consequences.§ High dignitaries of the Court, members of the ruling dynasty, were appointed governors of important provinces, but they never actually assumed charge of their office. They remained at Court and had themselves represented by accredited deputies (*Na'ib*), who had scarcely any other object in view than filling, with the revenue, the pockets of their noble chiefs; not neglecting at the same time their own. Thus Hisham appointed Maslamah, Governor of the United Provinces of Armenia and Adherbaijan. But Maslamah appointed a *Na'ib* who administered the province for him.‖ Even

* Aghani, XIX. 61.

† Ibn Athir, p. 138, Vol. V.

‡ *Ibid*, p. 75.

§ *Ibid*, p. 116.

‖ Ibn Athir, V. 102.

under Yazid II, the provinces of Armenia, Adherbaijan and Jazirah were reckoned as one administrative unit.* When the Prince, however, did later on personally assume the Governorship, he generally forgot to send in the revenue to the Central Government.† Under Hisham, however, some provinces appear to have been quite prosperous and thriving. Their revenue, in consequence, increased. It is reported that the capitation-tax of Alexandria went up under him from 18 to 36,000 Dinars.‡ Inspite of his good-will, this prince could not check the decay, or stave off the fall, that seemed inevitable. It should, indeed, be mentioned that he turned his attention to public buildings, and had a canal dug at a cost of 8 million dirhams, which provided the town of Mosul with good drinking water.§ The administrative arrangements of the Empire had remained fairly unaltered. The two judicial appointments of Kufah and Bassorah were made by the Governor, and not, as before, by the Caliph. This indicates an increasing weakness in the Central Government. A new office also came into existence, at first combined with the Judgeship of Kufah; *viz.*, the Commissionership for Ahdath. (An official whose business was to suppress disorders See Dozy,

* *Ibid*, p. 52, Vol. V.

† *Ibid*, V. 74.

‡ Beladhuri, p. 223.

§ Ibn Athir, V. 99.

Supplement, Vol. I, p. 258). With this office the headship of the police (Shurtah), of which mention has already been made, was not infrequently combined. The right to preside at public prayer was ordinarily a privilege of the Judge.*

Walid II, to court popular favour, raised by 10 per cent. the annuity assigned to the blind and the crippled, and ordered public distribution of food.† On account of lavish expenditure his successor found himself constrained to cut down the annuity, and therefore received the surname of the "niggard." It is undoubted that in Iraq but two judicial posts existed; *viz.*, at Kufah and Bassorah. Of these only do we read in histories.‡ In other large garrison-towns like Damascus, Hims, Kinnasryn, Fustat and others, special judges were appointed.

Judiciary, as a universal institution, embracing the whole of the Kingdom, had no existence at that time. Judges were originally appointed for the settlement of disputes among Arab-warriors and their dependents. They did not trouble themselves much about non-Muslims, as is the case to this day in Turkey. The Government granted to non-Muslims complete autonomy, and allowed them full freedom in the settlement of their private affairs. The religious-head of the

* [I am indebted to Prof. Margoliouth for tho translation of this passage. Tr.]

† De Goeje, Frag. Hist. Arab., Vol. I, p. 123.

‡ Ibn. Athir, V., 180.

non-Muslim community performed, whenever practicable, the judicial duties among its members and dependents. This is the only way in which the phenomenon, at first sight so strange, can be explained: that in the beginning of the Caliphate only in large towns were Judges appointed. Later on, when the Empire grew in extent, the Governors appointed and dismissed at will Qadhis in their provinces.*

The Political Organization under the Abbasids.—II.

The very same revolution which wrested the Government from the Omayyads and transferred it to the Abbasids also robbed Damascus of its hegemonic position and raised Iraq to the seat of Government. The Caliphs resided at first at Kufah, Hashamiyya, and Anbar, and later built Baghdad, which remained for centuries the seat of the Caliphate and the capital of the Empire. From here was the Muslim world governed, and the first and foremost effect of this change of dynasty was to confer upon the Eastern provinces a much greater political weight and importance than had been the case theretofore.

The political division of the Empire under Saffah, the first Abbasid, was as follows:—(*i*)

* Ibn Athir, V. 106. I here add one more observation. Under the Omayyads a State archive existed in Damascus. (Bait-ul-Quratis). Mas'udi, V. 239.

Kufah and Sawad; (*ii*) Bassorah with Mihrajankadak;* the Tigris District; Bahrain and Oman; (*iii*) Hijaz along with Yamama (Central Arabia); (*iv*) Yaman; (*v*) Ahwaz (Khuzistan, Susiana); (*vi*) Faris; (*vii*) Khurasan; (*viii*) Mosul; (*ix*) Jazirah; (Mesopotamia) with Armenia and Adherbaijan; (*x*) Syria; (*xi*) Egypt with Ifrikiyyah (Africa); (*xii*) The Indian frontier (Sind). Later Saffah split up the larger governorships, and withdrew the governorship of Palestine from Syria, and that of Armenia and Adherbaijan from Mosul, and formed out of them two administrative districts.† Countries, newly conquered, were ruled by governors of the neighbouring districts, who appointed their Lieutenant-governors. Thus the governorship of Sicily was not directly given away by the Caliph but by the Governor of Africa,‡ just as in the earliest times, Africa continued to be under the Governor of Egypt.§ The first Abbasid entrusted the taxation and financial administration to Khalid Ibn Barmak, a Persian convert to Islam, and appointed him as head of the central Board of taxes established under the title of the Diwan-ul-Khiraj.‖ Next

* [Guy Le Strange, The lands of the Eastern Caliphate, p. 202. Tr.].

† Ibn Athir, pp. 340, 341, 343, 348, Vol. V.

‡ Dozy; Ibn Adhari, Vol. I., p. 104.

§ *Ibid.*, p. 23.

‖ Ibn Athir, V, 342.

to this office the most important was the office of *Wizarat.* This office appears to be of Persian origin, and came into existence for the first time under the Abbasids.* But all these institutions and offices were of very variable character. They took their tone and colour from the ruler

* Mas'udi, p. 133. Vol. VI. Suyuti, Husnul Muhadherah, Vol. II., p. 113. [See Khuda Bukhsh, pp. 242—261. The following from Al Fakhri will be interesting. "Before entering more fully into this matter, we must needs say a few prefatory words on this subject. I say, then, that the Wazir is one who is intermediate between the King and his subjects, so there must needs be in his nature one aspect which accords with the nature of Kings, and another aspect which accords with the natures of the common folk, so that he may deal with both classes in such a manner as to secure for himself acceptance and affection; while trustworthiness and sincerity constitute his capital. It is said 'when the ambassador plays the traitor, policy avails naught'; and it is also said 'The man belied hath no opinion'; so it is important for him to be efficient and vigorous, and necessary that he should possess intelligence, wariness, cunning and resolution. It is likewise needful that he should be generous and hospitable, that thereby he may incline man's neck to his yoke, and that his thanks may be on the tongues of all; nor can he dispense with gentleness, patience, stability in affairs, clemency, dignity, gravity and an authoritative address......... Now the rules of the Wizarat were not fixed, nor the laws which govern it set in order, before the dynasty of the Abbasids. Before that time its rules were indeterminate and its laws unsettled, nay, rather each king was surrounded by certain courtiers and retainers, and when any important crisis arose, he took counsel of such as were most sagacious and wise in council, each of whom, therefore, acted as Wazir. But when the Abbasids came to the throne the laws of the Wizarat were fixed, and the Wazir was named Wazir, having hitherto been entitled secretary (Katib), or counsellor (Mushir). Lexicographers say that Wizr means 'a place of refuge,' 'an asylum,' and that Wazir means 'burden,' so that Wazir is either derived from 'wizr,' in which case it means that 'he bears the burden,' or from 'wazar,' in which case it means that the king has recourse to his judgment and counsel." Apud, Browne, Lit. Hist. of Persia, p. 266. Tr.]

who allowed to his minister a larger or smaller measure of independence and personal initiative as the case might be. The Wazir was all in all until the time of the Caliph Al-Radhi, when he was supplanted by the chief courtier (Amir-ul-Umara), whose rôle, in politics, bears a striking resemblance to that of the Major Domo in the Frankish Empire.* The title of Wazir was conferred on the first minister of the new rulers when the Buwayyid Sultans took the Caliphs completely under their tutelage, leaving them no more than the spiritual leadership of Islam.† The Caliphs then had only a Secretary, who bore the title of Ra'is ur Ru'asa (Chief of the Chiefs). Under the Seljuk Sultans the Caliphs again secured larger powers. They once more nominated, as before, their own Wazirs.‡ The Arab jurists, notably Mawardi, have busied themselves with the discussion of the position held by the Wazir in the State. Lessons drawn from history helped the elucidation of the subject. They mark two stages of *Wizarat*:—(A) the unlimited *Wizarat*, (B) the limited *Wizarat*. The Wazir, with unlimited powers, whom people called the Grand Wazir, an expression which later on came into fashion, was the Major Domo and alter ego of the

* Abul Faraj, Hist. Dyn., p. 302.

† [Comp. Ameer Ali, Hist. of the Saracens, p. 410. Tr.]

‡ Suyuti, Husnul Muhadherah, Vol. II. pp. 11, 4, 115, 117.

Caliph. He practically exercised the powers and prerogatives of the sovereign, and was only required to inform the Caliph of all he had done. The Grand Wazir could make any arrangement he considered necessary, without preliminary sanction. Only he could not dismiss an officer appointed by the Caliph. On the other hand, he had the power of appointing officers in the name of the sovereign, and of sitting as a final court of appeal in law suits. Except under the first two Caliphs of the Abbasid dynasty, the Wazir was all-powerful. His power grew more and more as the Caliph, ridding himself of the cares of government, plunged into the pleasures of the Harem. With rare exception this was the case from Harun onward. And yet the position of the Grand Wazir was by no means easy, or free from anxieties. He was required to possess all the arts of an accomplished courtier; and oriental rulers demanded, in this respect, a constantly increasing standard. The Arabs expected a great deal from him. He had to be conversant with the games of chess and polo and also expected to play the guitar and to be proficient in mathematics, medicine, astrology, poetry, grammar and history; finally, in the recitation of poems and narration of tales. For this reason, indeed, oriental literature is rich in books dealing with the rules of conduct for *Wazirs,* and these swell to thick

volumes by endless accounts of clever conduct on the part of the earlier grand *Wazirs* in cases of difficulty. The old Buzurg Chemehr, the *Wazir* of the Persian King An-Nushirwan, repeatedly figures in these stories. There is much that is exceedingly fascinating in them. One, at all events, has even become the common property of European literatures; *viz.*, the well-known story in which the wise minister seeks rest with the King during a hunting expedition under a ruined building, and interprets the conversation of two owls that were resting there. The two owls had just had a discussion, said the *Wazir*, about the marriage of their little ones, and had agreed as to the dower, which was to consist of a hundred deserted hamlets. To this the owls added: May God long preserve our ruling sovereign, for in his glorious reign deserted places will never be wanting, since on account of heavy taxation the peasants are daily taking to flight. To this story, given in all details, the oriental authors add the further information that An-Nushirwan, carefully considering this conversation, took it to heart, and removed straightway all unjust taxes, for which the people had really to thank the shrewd minister. The powers of the limited Wazir were not so large or extensive. He had no initiative of his own, but had merely to carry out the orders given to him by his all-powerful Lord

and Ruler. He was merely the intermediary between the ruler and the people. This dignity, nevertheless, was of sufficient importance to set aglow ambitious dreams. This Wazir was in direct communication with the Caliph, and was always the first to draw upon the fountain of royal generosity. All commands and ordinances of the Caliph passed through his hands, were drawn up and given by him their official character, either by the affixing of seal or signature, or by other prescribed form. But let us not, for a moment, imagine that this position was easy to hold, since it required a many-sided knowledge of administration, of taxation of the provinces, and of public and private laws. Instances are on record of Wazirs losing their post by reason of their incapacity. It should not be inferred from this that not unfrequently less gifted men succeeded to that office. The deposition of the Wazir was generally synonymous with the forfeiture of his properties and the loss of his life. For the post of a limited Wazir, some Muslim jurists considered even the employment of non-Muslims as permissible. This proposition called forth as much indignation among orthodox Muslims as in our own days the appointment of the first Jew to the post of Minister provoked hatred and ill-will in certain quarters. The Shi'ite dynasty of the 'Ubaidites' who ruled Africa and later on Egypt actually

appointed a Jew as Wazir. To it a contemporary poet refers in the following verses, which show how, even then, the activity and the adventurous spirit of the Jews had secured for them a position no less influential than that which they occupy in our own days:

*The Jews of our time have reached the goal of their ambition. To them belong power and authority. Out of them are chosen counsellors and princes. O people of Egypt! I advise you to become Jews, for heaven itself has become Jewish.**

The Muslim jurists have busied themselves with a far more important question, *viz.*, whether several *Wazirs* could act side by side. In the great pressure of business and the vast extension of the Empire, the need for division of the highest functions of government must have made itself felt, the more so as the oriental princes gradually grew careless and forgetful of their duties. Not seldom did it happen that several Wazirs worked side by side. The Arab jurists forbid on principle the simultaneous appointments of several unlimited Wazirs. They declare such a course only permissible when their work and jurisdiction are carefully defined and marked off from one another, or when they act collectively as one administrative unit. As regards

* Suyuti, Husnul Muhadherah, Vol. II, p. 117. [Khuda Bukhsh p. 251. Tr.]

the appointment of the Wazir, it was always effected by the sovereign, either orally or in writing. We can easily imagine that the dismissal took place no less simply and unceremoniously. It can scarcely be doubted that the limited *Wizarat* was the earliest and the original form of this institution, and that only with the increasing decline and decay of the authority of the Caliph did the unlimited *Wazir* step into light. As affairs at the court of Baghdad grew worse and worse, the more luxuriously did the buds unfold and the leaves grow of adventurous ambition. These observations should suffice to give the reader an idea of what the institution of *Wizarat* was like. In the East, in Turkey, Mongolia, Persia, etc., etc., it has remained precisely the same. It is reported of the third ruler of the house of Abbas that he declared (*a*) an honorable kadhi, (*b*) a just chief of the police, (*c*) a business-like finance-minister, and (*d*) a trustworthy post-master to be the four most important instruments of Government. Almost all these offices were then looked upon as indispensable. The chief police-officer (Sahib-us-Shurtah) in the earliest times was really the commander of the royal body-guards. He executed death-sentences.* In each viceroyalty there were such chief police-officers who were

* Ibn Athir, VI, 16, 17. (2) Later on the Sahib-us-Shurtah became an important courtier, Ibn Khaldun. Prolég, Vol. I, p. 452, Vol. II, 35.

responsible for public security and the maintenance of public order. Very often this position was combined with that of governorship, but more often it was distinct from it. The position of the Muhtasib, or overseer of the market and public morals (an office which existed even under the second Abbasid in Baghdad), is not to be confused with that of the chief police-officer.* As regards governorship, it is divided by Arab jurists, like *Wizarat*, into limited and unlimited governorship. Limited governorship consisted in the command of troops and in general administrative powers, but it included neither the exercise of judicial powers nor representing the head of the State in matters spiritual. Such was the governorship in the better days of the Caliphate, when the authority of the Central Government rested on a firm basis.

In the earliest times of Islamic Government, however, governorship must have been considerably unlimited; the governor being then the representative of the Caliph in all matters, spiritual and temporal. They thought so little then of the separation of the spiritual from temporal power, that the governors of the provinces stood at the head not merely of administrative, military, finance and judical matters, but also represented the Caliph in all affairs spiritual. They preached on Fridays in the Mosque,

* Ibn Athir, V, 440.

presided at the prayers, and were in a literal sense legates of the high-priest of Islam. Such was governorship under Abu Bakr and Omar, and partially even under Othman, who sought to abridge their power and authority. More so still did the politician Muawiah try to cut down their powers. But so long as the powers of the Caliph were real and effective, the authority of the governor was necessarily limited, and the Abbasids drew the rein tightest. Mansur was in the habit of confiscating the property of a governor when he deposed him.* The deposition of governors, their recall or transfer, depended indeed upon the will of the Caliph, who shifted them about, only too often at his caprice.

The unlimited governorship very soon passed into that which the Arab Jurists designated 'Governorship by Usurpation.' Such governorship became only too common during the declining days of the Caliphate. Every political adventurer who took possession of a province without the sanction or authority of the sovereign, nay, against his will, was, so to speak, Governor by Usurpation. The Caliph generally confirmed him in his position, and concluded a treaty with him to the effect that he should acknowledge him as the high-priest of the

* Ibn Athir, VI, 19. He imposed upon Khalid ibn Baramak, whom he appointed governor of Mosul, payment of 3 million dirhams in three days. *Ibid*, p. 18.

Muslims and do homage to him as the supreme sovereign of the Islamic world. As against these conditions the rebel was acknowledged and confirmed in his position.*

We have yet to discuss an institution quite characteristic of the Caliphate; *viz.*, that of the Postmaster (Sahib-ul-Barid). The name is anything but descriptive of the office, which was quite different from what we understand by it. A more accurate description perhaps would be: General Reporter, or Chief of the State Police. It corresponds to an office which some years ago was introduced in Turkey under the title of 'the Controller' (Mufettish), but which, as a matter of fact, did very little good. In all the administrative districts of the Turkish Empire, which are now called *Walayat*, and which to some extent correspond geographically to the governorship of the Caliphate, a Mufettish was sent along with the Governor-General, who had to supervise the general administration, confirm certain acts by giving his signature, and furnish information to the central government. The Controller exercised indeed some check upon the Governor-General. But this arrangement proved ineffective, because the Mufettish, instead of making himself hostile to the Governor-General by forwarding correct reports, preferred

* See Gesch. der herrsch. Ideen des Islam, p. 421. For further information see Ch. VIII.

to be friendly with him, and allowed things to drift. The favours of the Governor-General were more profitable to him than perhaps the uncertain recognition which he might obtain, by his correct reports, at Constantinople. The sublime Porte, lately devised another means of control. It sent into the provinces special Government Reporters under the title of 'Gurnalgy.' The result of this measure is equally open to doubt, as the control and supervision remains worthless until the sense of duty and honour is strongly developed in officers. Even honourable and loyal officers cannot for long maintain or preserve a decaying Government. But all control is worthless without this preliminary condition. A similar, but far more trustworthy, position was that of the Chief Postmaster. At the head-quarters of each of the large provinces of which the mighty Empire was composed, was a Postmaster, whose duty was to keep the Caliph continually informed of all important affairs. The Postmaster had even to supervise the action of the Governor and was, so to speak, a direct confidential agent appointed by the central Government. The report of a Chief Postmaster of Baghdad, at the time of the Caliph Mutawakkil, has come down to us. The Governor of Baghdad had gone on pilgrimage to Mecca and Medina, to discharge the obligation of pilgrimage, and had bought there a

beautiful slave-girl, with whom he had passionately fallen in love. He tried his very best to keep this matter a secret, but the Chief Postmaster heard of it, and sent the following report to the Caliph, who was then at a distance of four *farasangs* from the capital in one of his country palaces.

"In the name of God, the Merciful and Compassionate. O, Prince of the Faithful. Mohammed Ibu Abdullah has purchased a slave-girl for 1,00,000 Dirhams. He amuses himself with her from noon to night and neglects the affairs of the State. The Prince of the Faithful would not like to see Baghdad in an uproar, for then the Prince of the Faithful would have difficulty in restoring order. The most abject slave reports this to the Prince of the Faithful, whom may God strengthen. Peace and mercy and the blessing of Allah be upon him!"* We possess the account of the Postmaster of Khurrasan under the Caliph Mamun, who was present at that remarkable sermon in which Tahir, the powerful Governor of that country, at the Friday sermon in the great Mosque, before the assembled populace, intentionally excluded the name of the reigning Caliph and substituted his own.

The Postmaster straightway hastened from the Mosque to his house, wrote out his report and despatched it through a hurrying messenger. It was not long, however, before the Governor

had him overtaken. The reporter thought himself dead, but a sudden and unexpected occurrence put an end to Tahir's life, and the loyal agent of the Caliph thus escaped death.*

We even know the form of appointment of a Postmaster. The Caliph commissions him therein to report from time to time on the condition of the finances and the administration of the crown-lands, the state of agriculture, the affairs of the peasants, the conduct of the magistrates, and matters connected with the coinage. He was also to be present at the review of the troops.

We see thus that the postal system, in our sense of the word, was quite a secondary consideration. It is remarkable and affords an evidence of the fairly developed system of Government, that in the commission to the Postmaster it is recommended that he should not in his report mix up different affairs, but treat each branch of the administration separately, so that the report might be forwarded to the proper department. It does appear, as Dr. Sprenger points out, that the reports sent in were forwarded by the Caliph to the different departments. It is sure enough that the post did not go on fixed days and hours, but only as and when the Government affairs required. That it did carry private letters is probable, but it is certain that there was no postal institution for the use of the public, but

* De Goeje, Frag. Hist. Arab. p. 453.

it was exclusively for Government service.* For the despatch of letters both horses and carriers were used. The latter appears to have been the case in Persia, where postal stations, as stated by Qudama, were at much shorter distances than in Syria and Arabia, where the postal messengers used camels.† The relays had to be pretty strong, since they were used for personal transport also. Thus, a Governor went, along with his retinue, by mail to the province assigned to him, and even troops were sent in this way, as we have already mentioned.

Throughout the Empire, postal relays were quartered at fixed distances, thus connecting the provinces with the capital. Mahdi, in the year 165 A. H., arranged such a postal course from Yaman to Mecca, and from Mecca to Baghdad.‡ In order to distinguish the postal from private horses their tails were shorn in a particular manner § Ibn Khurdedbah, who himself filled the office of the Postmaster-General under the Caliph Mutamid, says that in the Central Empire there were 930 stages. The cost of feeding the animals, the purchase of new ones, the salary of postmen and postal officials, amounted at his

* According to Masudi the post carried private letters also. VI. 93. *Cf.* Sprenger, Post—and Reisrouten des Orient p. 159.

† *Cf.* Sprenger, p. 2.

‡ Ibn Athir, VI, 49 ; Ibn Taghybasdy, I, 443.

§ Ibn Khurdedbah, 512.

time to 154,000 Dinars yearly (about $2\frac{1}{3}$ million Francs.)* Under the Omayyad Caliph Hisham, the postal expenses of the province of Iraq alone amounted to 4 million Dirhams. The information of Ibn Khurdedbah regarding the expenses of a single province refers probably to Iraq.† At the residence of the Caliph there was a postal Diwan. All despatches from the province had to pass through the hands of this Diwan. He had to place before the Caliph the reports of the Postmaster and other correspondence, and when necessary to make extracts from them. Further, it was his duty to appoint postal officials in all the provincial towns, to exercise a general supervision, and to see to the payment of their salary.‡ They had in Baghdad very accurate postal itineraries of the whole Empire, in which all the stations were noted, and the distance from one to another carefully marked. The oldest geographical works of the Arabs used these postal directories as a basis. The quickness with which great distances were traversed by postal carriers leaves nothing to desire. An apparently overdrawn and exaggerated item of information is preserved, to the effect that a carrier in three days traversed a distance of 250 *farasangs*, about 750 English miles ; implying thereby that he did

* [Ameer Ali, p. 417. Tr.]

† Under the Omayyad Governor, Yusuff Ibn Omar, the expenses for the postal institution in Iraq amounted to 4 million Dirhams. Marwardi, ch. XIV; see p. 306.

‡ Sprenger, 1—6.

10 English miles an hour.* In 20 days the postal carrier rode from Jurjan to Baghdad. Even pigeons were used for carrying news at an early date.† In later times, under the Caliph Nasir, they seem to have been in great requisition.‡ As regards administrative measures under the Abbasids, it is necessary to mention the introduction of the Board of Administration (Diwan-ul-Zamimah) ; a measure adopted by the Caliph Mahdi.§ We possess, however, no information regarding its work. We are unable, to ascertain whether it exercised control generally over the conduct of affairs, or whether it had merely to do with regular book-keeping. As under the Omayyads, so also under the Abbasids, the Central Treasury (Diwan-ul-Khiraj) carried on the most important functions. Its duty was to receive direct the land-tax of Iraq, the most important province of the Empire, and to keep an account of the

* Al Fakhri, 257. De Goeje, p. 325, Vol. I. Ibn Taghribardy, I, 452. The Russian carrier who, on the death of Mahomed Shah, brought the news to Nasiruddin Shah, the reigning Shah, went from Tehran to Tebriz in 48 hours, a distance of 94 *Farasangs*. Polak : Persien, II, p. 5. Carriers on horseback generally do 20 German miles a day. From Tehran to Trapezunt, a distance of about 37 days, the carrier does on horseback in 10 days. From Tehran to Shiraz, a distance of 23 days, the carrier on horseback does in 5 days. Polak : Persien, II, p. 61.

† Under the Caliph Mutasim. Mas'udi, VII, 127.

[It is stated that the employment of pigeons for carrying news was known to the Greeks and the Romans ; but the authentic record is found in the reign of Mutasim, when the news of the capture of Babek was carried to Baghdad by means of a carrier pigeon. Ameer Ali, p. 418. At the time of the Crusades pigeons were very largely used. Tr.]

‡ Journal Asiatique Series, V. Vol. VI, p. 284.

§ Ibn Taghribardy, Vol. I, p. 435.

taxes which came in from other provinces. With the levying of taxes, not unfrequently another office, namely that of the supply of natural products, was coupled.*

The second most important office was the Diwan-ul-Tawqi, which exactly corresponds to what we call the Privy Council. This office, which under the Omayyads bore the title of the Board of Signet, had to prepare all the ordinances issuing from the Caliph, to enter them in the registers, to impress on them the seal of the Caliph, consisting usually of a passage from the Qur'an, and finally to expedite their despatch. The reports and memorials addressed to the Caliphs came to this office. At the head of it, usually, was the Wazir. It is easy to see the importance of this office. It exercised, not unfrequently, the highest supervision on political administration. It exercised control over Governors, and so it was often called the Supreme Board of Control for the entire body of provincial Governors.† Another office existed for the administration of the crown-lands, and bore the title of Diwan-ul-Dhiyyah; Board of Crown-lands. It is difficult, nay well-nigh impossible, to give a perfectly accurate account of the administrative machinery at a given period, inasmuch as different

* Ibn Athir, IV, p. 279.

† De Goeje, Frag. Hist. Arab. p. 552.

rulers frequently made capricious changes. Under Mutawakkil, at a time when the Abbasid dynasty was still in complete possession of its old powers, the following Government offices existed:—(1) The Board of Taxes (Diwan-ul-Khiraj), (2) the Board of the Crown-lands (Diwan-ul-Dhiyyah), (3) the Board of Accounts (Diwan-ul-Zamimah), (4) the Military Board (Diwan-ul-Jund Wal Shaqiriyyah), (5) the Board of Clients and Slaves of the reigning family, (Diwan-ul-Mawali Wa Ghilman), an office which has no parallel in European countries. It was of great importance, since it was here that the register of freed-men and slaves, counting many thousands, was kept and their pay-bill made out, (6) the Post Office Board (Diwan-ul-Barid), (7) the Board of General Expenditure (Diwan Zimam Wa Nafaqat.)*

Qudama gives the following list of the important Government offices existing at his time: (1) the War Office, (2) the Board of General Expenditure, (3) the Board of Revenue (Bait-ul-Mal), (4) the Board of Correspondence (Diwan-ul-Rasa'il), (5) the Board of Requests (Diwan-ul-Tawqi), (6) the Board of Signet, where despatches were sealed and sent out, (7) the Board for

* (1) *Cf.* Yaqubi, p. 42; Ibn Athir, Vol. VII, p. 27.

[For further information on Government Offices, see Makkari, Appendix, pp. XXVIII–XXXI, Vol. I; De Sacy., Christ. Arabe, Vol. I, p. 132; Ibn Khallikan, Vol. I, p. 26, note 13; p. 444, note 3; p. 100, note I. Fakhri, pp. 130; 151. De Sacy, Vol. I. p. 40. Suyuti, Husnul Muhadherah, Vol. II; p. 173. Tr.]

opening despatches (addressed to the Caliph), (8) the Board of Currency and Regulation of Weights and Measures, (9) the highest office for the control of administration and judiciary (Nazr-ul-Mazalim), (10) office for the regulation of police and recruits, (11) Postal Department.

Along with these most important offices and departments, there were a limited number of subordinate offices of an administrative, political and judicial character.

Nothing was more foreign or distasteful to the Asiatic mind than a severely centralized Government. Every hamlet, every town, indeed, conducted its own affairs by itself, and the Government only interfered when it was insubordinate, or when it refused to pay the taxes.

With matters relating to agriculture only did the Government apparently make an exception to its rule of non-interference, *viz.*, in supervision of the water-works and the construction of the dams upon which depended the agricultural produce and the collection of taxes. The restoration and preservation of the canals was, therefore, looked upon as one of the most important functions of the Government, and Abu Yusuff emphasises it in his letter to Harun. One of the first duties of the Government, he says, is to restore, at its cost, canals necessary for the promotion of agriculture; as well as to purify and to keep intact the great canals which bring

to the countries the water of the Euphrates and the Tigris; the expenditure is to be borne partly by the State and partly by those who share the benefits. No less expressly is it stated that the expenses for the sluices, water-works, and the dams in the Tigris and the Euphrates, are to be defrayed exclusively by the State Treasury. The care and attention of the Government, according to Abu Yusuff, should also extend to the river-police, and the removal of all obstacles to navigation in large rivers, specially the Euphrates and the Tigris. This was pointed out as an essential duty of the Government.

In conclusion, we should not omit to mention that, while the higher Government police existed in the person of the Chief Postmaster, under Mansur a very large number of detective police came into being, who turned their attention to all conditions of society. For this Espionage Service people from all classes and conditions of life were chosen; particularly merchants, pedlars, etc., etc., with whose reports of the important affairs the Caliphs were kept continually informed.*

It need scarcely be mentioned that this spy system, which is in the nature of a despotic Government, was kept up till later times. Under Harun it put forth its blossom and bloom, and

* Aghani, XV, 36; De Goeje, p. 234.

later on the Caliphs even took their own detectives into camp when they went out on an expedition.*

No special odium appears to have attached to the activity of the police. People were only too accustomed to it.

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* Goeje, 466, 498, 512, 514, 567.

CHAPTER VI.

The Organism of the Muslim State.

In the foregoing pages we have acquainted ourselves with the religio-political community of Islam, the origin of sovereignty, and the sources of the revenue of the boundless realm; as also with the court of the pleasure-seeking Caliphs of the Omayyad dynasty at Damascus—the charming capital of the then Muslim Empire. We have pried into their public and private life, their carousing banquets and evening entertainments, and will, later on, survey the still greater splendour of the court of Baghdad and the marvels of the then world-renowned city. To complete the canvas we now consider it incumbent on us to describe the entire organism of the Muslim Empire with special reference to the theories (anticipating, often enough, future events), propounded by Arab jurists. We propose, therefore, to discuss closely the position of the head of the state, the theories regarding sovereignty and sovereign rights, the sphere of work of the highest dignitaries, and the guiding principle of judicial and administrative work. To obtain this result we have always relied upon the views of the most distinguished Muslim writers from whom we get a clear idea of

what, in their opinion, the Islamic state should have been. This study will complete what we have already said, in the earlier portion of this work, about the condition of the Caliphate as it actually was. Here, as in all human affairs, we shall perceive the distance which divides the real from the ideal. In considering the political life of those times and countries we shall have by our side, as our guides the greatest Arab thinkers. We shall thus with certainty be able to pronounce a verdict on many of the most remarkable phenomena of those great epochs of Arab political life. We shall be in a position indeed to recognize the spirit of the age and its creations, specially with reference to politics. By pursuing this course many antiquated errors will be corrected and fresh vistas will open before us. It is obvious (and it needs no proof) that we should start our enquiry with the head of the state—the supreme master of the spiritual and temporal affairs—the Caliph, the Sovereign, the *Imam* ; his rights and duties and his connection with the nation as a whole. The position of the head of the state and the devolution of sovereign power will, therefore, form the first object of our enquiry. Here we shall familiarize ourselves with the views of Arab writers who made jurisprudence the field of their learned investigation. The Arabs were too original to have failed to bring out, in this respect also,

opinions quite independent, and views quite characteristic of their own. Falsified too often as their theories were by the course of historical events, it is none the less instructive to know that deeply weighed and considered and not rarely surprisingly independent system on which they hoped to found their Empire and their Government.

Next to the supreme head of the state are his executive authorities—the highest dignitaries and holders of the most important offices. Their rights, jurisdiction and sphere of duties call for careful enquiry and elucidation. In this connection the *Wizarat*, the governorship and the military system must first claim our attention. To these is to be added one of the most important functions of the state-machinery; *viz.*, the administration of justice. Nor can we pass over the police-system, the finances, the administration of taxes, the land-laws and the important principles regulating them. Next we shall consider the religious affairs which, in Muslim countries, are much less separable from politics than they are in modern European states. Then we shall deal with administrative principles, and conclude with a glance at the principles of criminal justice, which the Arabs classified under administrative studies. We shall first proceed, according to the plan set out, to the discussion of the political position of the head

of the state—the Caliph—as the Temporal and Spiritual Sovereign of the entire body of the faithful.

I. The Prince of the Faithful.

In politics the Arabs knew how to give and maintain a pronounced stamp of their own original creative powers, despite manifold imitations from earlier civilized nations. The Arab conception of the aim and object of the state, therefore, is different from the nature and limits of royal authority and sovereignty as conceived by all earlier Governments. The Muslim state of the patriarchal epoch was but a great religious and political association of the Arab tribes for booty and conquest under the banner of Islam—having for its watchword : 'No God but God and Mohamed his Prophet.' The Arabs, under the pretext of spreading the only true religion, poured into the rich neighbouring lands and thereby did excellent business for their worldly prosperity. At the head of this mass of tribes, risen suddenly to worldly powers and united by one common interest, stood the Caliph who, in the earliest times, simply passed as the representative of the deceased Prophet. He commanded expeditions which were undertaken with the advice of the most important companions of the Prophet. He organized and conducted military affairs. He administered the

state revenue and dealt with the finances. He had full powers of disposal over the treasury—*Baitul Mal*—the name by which the treasury is known to this day. He, even, exercised judicial functions and administered criminal justice, and finally—this was the most important of his duties—he led the entire Divine Service, and was, so to speak, the supreme Pontiff of the religious community of the Muslims. We have already spoken of the unpretentious way in which the first two representatives of the Prophet discharged their duties. Surrounded by no royal luxuries or Court pageantry, they lived like other men of the tribe, and made no special claim to any marks of honour. Every freeborn Arab considered himself on a level of perfect equality with them. They ruled an unbounded kingdom and governed a very turbulent people, like the Arabs, who from time immemorial had been averse from discipline or authority. This power they wielded by virtue of the religious consecration with which as the high-priests of Islam they were invested. The Arabs had been accustomed to acknowledge no other authority than that of the ephemeral tribal chief whom they elected and deposed at will. Rarely, indeed, did the headship of an Arab tribe remain longer than four generations in one single family. Foreign to the Arabs was the idea of a hereditary kingship, or of divine consecration,

or of sacerdotal confirmation of the royal authority, such as prevailed among the theocratically minded Hebrews. Among the Arabs the prince owed his authority to general election : the only source of authority which they recognised. As long as the prophetic glory of Mohamed continued to shed its lustre on his successors, and the great wars to engross the minds of the Arabs, Islam succeeded in repressing those ideas of Arab antiquity. With the murder of Othman, however, this period of undisputed submission to the authority of the Caliph came to a close. When by consent or compulsion the entire Islamic world accepted the first Omayyad as Caliph, he succeeded, both in religious and spiritual affairs, to the heritage of his predecessors. He presided at the prayers and decided judicial and religious disputes, but despite all this his entire bearing was markedly worldly. Henceforward this spirit, with rare exceptions, remained dominant with this dynasty. Even under the Abbasids, the religious side of the Caliphate only came sharply into prominence when the Caliphs, losing their worldly power, found it more and more to their advantage to assert their religious importance as the spiritual chiefs of the Islamic world. In the happier days of the Caliphate, under the Omayyads notably, the commander of the Faithful was much more like the chief of the

ruling tribe than the high-priest of Islam. But the people clung obstinately to the old Arabian ideas relating to the election and deposition of princes. There was no fixed and established rule of hereditary succession ; election by the people and their homage was the only recognised title to the throne. Muawiah, indeed, succeeded in securing succession for his son by obtaining in his lifetime, the consent of the most leading men of the party. The election of his son was effected by these and the inhabitants of the capital. This fact clearly demonstrates that hereditary succession was not regarded as a valid title to the throne. Of the fourteen rulers of the Omayyad dynasty, it is to be noted that only four had their sons as successors. The old Arabian idea of seniority was in constant conflict with the natural zeal of the father to hand down the sovereignty to the son.*

Many individual cases prove the tenacity of the old Arabian right of election and the deep root that it had among the people. Abdul Malik proposed the election and homage of his two

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* *Cf.* Geschichte der Herrschenden Ideen des Islams : p. 407. A saying of Omar I. is reported, which runs thus : "If the election of a Caliph is effected without all Muslims taking part in it, the election is null and void." Dozy : Hist. des Musulmans d' Espagne : Vol. 1, p. 121. (*Cf.* Müller, Islam im Morgen und Abendland, Vol. 1, p. 209, Ranke, Weltgeschichte, Vol. V, pp. 107 et seq. The notion of divine right, or even of preferential claim, resting in the Prophet's family, was the growth of an altogether later age. Muir, The Caliphate, p. 6, Tr.)

sons by a plebiscite of the whole nation. To the governors of the provinces he issued orders to bring the whole weight of official influence to bear upon any opposition that his scheme might meet. In obedience to the Caliph's behest, the governor of Mekka summoned the people together; but one of the most revered jurists of his age, Sa'id ibn Mussayab, peremptorily declined to elect a successor during the lifetime of a reigning sovereign. By threat and illtreatment the governor sought to intimidate him; but Sa'id unflinchingly adhered to his views. The matter was reported to Abdul Malik, who censured the conduct of the governor and wrote back: "Either you should immediately have beheaded the man, or you should have let him alone." The latter course was adopted, and the old man was worried no more.* But an election, once effected, was regarded as so holy and binding that its operative force only ceased by the sovereign-elect releasing the electors from their vow. An election was likened to an inseverable chain binding the electors to the sovereign-elect, and thus we find a very common saying: "Election lies heavy on my neck."† Only the most imminent danger of life could induce the sover-

* Ibn Athir, IV, p. 410; Ibn Kutaibah, p. 223. (Another instance of Sa'id's independence will be found on p. 6 of De Goeje, Frag. Hist. Arab. See Ibn Khall, I, p. 568. Tr.)

† De Goeje, Frag. Hist. Ar., p. 9.

eign-elect to renounce his election. And even this had to be done in public. The Caliph Hadi caused homage to be done to Ja'far, but when Hadi died, the majority declared in favour of Harun. One of the officers of the latter hastened straightway to Ja'far, and threatened to kill him instantly if he did not renounce his election. Ja'far consented, and stepping out on the balcony of the palace, called out: "O inhabitants of the town! I release him on whose neck lies heavy my election. The throne belongs to my uncle Harun, and I have no right or title to it."* In the earliest times election and homage consisted in the members of the ruling family, the highest spiritual and temporal dignitaries, the chief commanders of the troops, and candidates to the throne meeting together and offering their hands to the sovereign-elect. After this the Caliph-elect generally delivered his inaugural address to the assembled populace in the mosque. Such an address, ascribed to Yazid III, we possess. Even if we reject it as a genuine document, coming as it does from early times it indicates a thoroughly democratic idea which the Arabs entertained of the position of the Commander of the Faithful. Against his cousin, Walid II, the debauchee and squanderer, Yazid had organised an insurrection. He fell upon

* De Goeje, Vol. I, p. 291.

him in his country palace, and killed him. Alluding to this he said in his inaugural address: "By God! I have risen against him not for the gratification of any ambition or worldly desire or craving for sovereignty. I say this not out of vanity; for a sinner indeed am I, if God showeth not compassion on me. I took up arms purely out of zeal for God and his religion. I invited men to come back to the path of God and his revelation, to the sayings of the Prophet, since the tokens of religion had been forgotten, the traces of truth effaced, and the light of revelation quenched. Let it be publicly and openly avowed that Walid was a self-willed tyrant who indulged in every form of vice and heresy; for he believed neither in the Day of Judgment nor the Qur'an, though he was my cousin and kinsman. When I considered this, I turned to God for counsel, and begged of him to give no other helper than himself, and prayed for his assistance. Many of his pious worshippers accordingly listened and hearkened unto me. I marched against the tyrant, and God delivered the people from his violence, not by any power of mine, but through his own grace. O people! I pledge myself to erect no buildings, to let out on lease none of your rivers, to build no palace, to hoard up no riches, to enrich neither wife nor child. From me is due to you your annuity year by year, and provisions,

month by month, so that prosperity among Muslims may increase, and those who live far away may participate in it, just as well as those living near. Should I keep my promise, you are in duty bound to listen to me, and to cheerfully obey me, to support and protect me. If, on the other hand, I do not keep my word, you are at liberty to depose me ; only you should give me timely warning ; and were I to mend my ways, then accept my apology. Should you, however, know a man of tried temper, who willingly offers what I have offered to you, choose, then, such an one, and if you so desire I shall be the first to do him homage and render him obedience. O people ! you are aware that no man is to be obeyed when he commands an act that is sinful. This is my address to you and I pray God for forgiveness for myself and for you."*

The address having concluded, he was elected a second time. This address clearly demonstrates the purely democratic character of the election. The sovereign could be simply deposed if he failed to fulfil his promise or to carry out his trust. The only and exclusive source of sovereignty and power was election by the assembled community of Muslims. In this fashion, indeed, did the election take place in peaceful times :

* De Goeje, Frag. Hist. Ar., Vol. I, p. 150 (*cf.* Mas'udi, Vol. V, pp. 458. Tr.)

the successor to the throne went to the chief mosque, which, among the Arabs, was the place of general assemblage, and represented the forum of the Romans, ascended the pulpit, and delivered his inaugural address, which was followed by election and homage.* On such an occasion the Omayyad Caliphs appeared dressed completely in white. The Abbasids, in contrast to the Omayyads, were clad completely in black. They wore a closely buttoned coat without a waist, reaching down to the knees, with wide, hanging sleeves ; over this a mantle was thrown hanging from the shoulder, which also had wide but shorter sleeves similar to those that are now called 'Abā.' The head was covered with a conical hat without a brim.† On such occasions the Caliph was decked with the insignia of sovereignty. Among the Omayyads these consisted of the signet and the *Kadyb* of the Prophet (a small staff with a barbed hook similar to that in use among the Beduins to this day). To these under the Abbasids was added the alleged mantle of the Prophet (Budah) which the first Caliph of this dynasty purchased for 300 Dinars. It has ever since been regarded

* Ibn Athir, p. 415, Vol. IV. [The development of the doctrine of a hereditary Caliphate, see Goldziher, Vol. II, pp. 98 et seq. Tr.].

† Aghani, VI, p. 141 ; De Goeje, Frag. I, pp. 199 ; 338. [See the 9th edition of the Encyclopædia Brittanica : Art. on Mohamed, p. 577 ; Shibli, Al-Mamun, p. 16 ; Browne, Lit. Hist. of Persia, Vol. 1, p. 242 ; De Sacy. Chrest. Arabe, Vol. I, p. 49 (note 48) ; Vol. II, p. 263. Tr.).

as the holiest of relics,* and is to this day preserved in the treasury at Constantinople. The Omayyads, after they had been robbed of the throne, founded a new and magnificent Caliphate in far distant Spain, and there transplanted the habits and customs of their Syrian home. The characteristic principles regarding free election and homage by the people obtained currency there too; and therefore it will not be without interest to give here a description of the election ceremony at the Court of Cordova, as handed down to us by a Spanish writer. "The first thing that Hakam II did, after the death of his father, was to receive the homage of the Frankish body-guards and their commanders who held the highest offices. Inasmuch as these Commanders had rendered personal homage, they pledged themselves to obtain from their subordinates the oath of fealty for the new Caliph. Then followed the first officers of the household, the officers of the troops, and the entire body of attendants. After he had received the homage of his immediate *personnel* and had been accepted as their legitimate sovereign, the new ruler summoned his two brothers to receive their allegiance. Troops forthwith hastened to the residence of the two princes and brought

* De Geoje, Frag. Hist. Arab, I, pp. 82; 208; 283. Mawardi, pp. 298; 299. (See Caussin de Perceval, Vol. III, p. 282, note. Goldziher, Vol. II, p. 54. Tr.).

them to the palace, where suitable quarters were assigned to them. Another division of the troops was commissioned to bring the half-brothers of the Caliph. They also, eight in number, came that very night to the palace Zahra of Cordova.* Early the following day the Caliph took his seat on the throne which stood in the centre of the pavilion, adorned with golden pillars. On the south side of the first storey there opened out a marble terrace. His brothers, who had rendered allegiance to him and had subscribed to the written formula of oath, were called in first. Then came the minister and the attendants. After them followed the chief police-officers and various grades of state-officials. All those who had taken the oath of allegiance sat in long rows on the two sides of the saloon, according to their respective rank. At the entrance of the hall stood one of the chief officers of the Court, and tendered the oath of allegiance to everyone who entered. In the great reception hall of the palace all present took their seats according to rank. In the beautiful hall, where the Caliph was enthroned, stood the officers of the body-guard in two long rows, wearing white tunics as a mark of mourning, and carrying their scabbards. After these came the guards, in long

* Makkari, II, p. 467.

shirts of mail, with richly adorned swords. Outside the arcade they stood on an open platform in two rows. In the adjoining corridor stood the white Frankish eunuchs, in white tunics—with halberds and drawn swords. The inferior white palace-eunuchs came next. Then followed the archers with hanging bows and quivers. After the Frankish eunuchs came black slaves, likewise beautifully armed. In the hall of the palace-guard were assembled foot-soldiers composed of black slaves. They wore breast-armour with white tunics underneath, and carried Frankish helmets and coloured shields. Their weapons were finely decorated. They were arranged in double rows, and extended to the very end of the outer courtyard. At the massive main gate of the palace were stationed the gate-keepers. Inside the gate were the negro-cavalry, whose columns filled the room up to the arcades. Other columns of troops, cavalry, infantry and archers, were placed in dense masses, and occupied the streets up to the outer gate of the town leading into the open country. After the general allegiance had been completed, all retired except the brothers of the Caliph, the minister, and the palace-officials, who were retained for the purpose of attending the burial of the Caliph Nasir—the father of the newly elected sovereign—who was buried in the royal graveyard of Cordova. From all parts of Spain numerous

deputations streamed into the court, the next few days, to render allegiance or to offer good wishes to the Caliph. In the presence of the minister and the *Kadhi* they were received, and their allegiance accepted, and the protocol relating to it prepared.*

This interesting account, drawn from Hispano-Arab sources, relieves the usual dryness of the historians of the East, who indeed very rarely, describe such ceremonies in detail, since they assume them to be generally known. Similar festivities at the Court of Damascus or Baghdad were equally magnificent as, we shall see later when we come to describe the life there. We know that in later times election and homage invariably took place at a great State-Assembly, in which all the ministers (Wazirs), high State-officials, judges of Baghdad, and the Alides as also the Abbasids under the leadership of their two *Naqib ul Ashraf*, and finally the dignitaries of the capital, took part.† The custom early grew up for the new Caliph to distribute large sums of money to the troops and the people on his election. Like the later Roman Emperors, who had to win over the praetorian guards by purses of gold, the Caliphs were no less constrained to pursue the same method as regards

* Makkari, I, pp. 182 and 183; Vol. II, p. 156.

† Ibn Khaldun, III, 410, 480.

their supercilious Turkish body-guards, who set up and deposed them with equal facility. Often, indeed, did the election sink into a mere formality; but instances are not wanting which prove how deep-rooted in the mind of the Arabian people was the idea that election was an essential preliminary to the legal assumption of sovereignty. When Muqtadir was to be elected, the Kadhi Muthanna refused to elect and to do homage to him, saying: "I would not elect a boy for a Caliph." He adhered strongly to the principle laid down by the publicists and jurists that a minor could not be elected. This firmness of conviction cost him his life.* It may be seen from what has been said that this ancient Arabian right to elect the ruler was very loosely defined. It was founded entirely on old and more or less vague customs and popular traditions which underwent notable alterations. Thus, at the time of the first Omayyad Caliphs, it would have been unthinkable for the son of a concubine to be proclaimed heir to the throne. And yet the Caliph Walid II tried it, though unsuccessfully.† Such instances, however, became only too frequent later on. Harun appointed his two sons, Amin and Mamun, as his successors to the throne, and caused allegiance to be sworn to them. The latter was a month

* Ibn Athir, Vol. VIII, p. 13.

† Aghani, Vol. I, p. 136.

older than the former, but Amin was the son of Zubaida, of the noble *Hashimide* tribe; while Mamun was the son of a Persian slave.* Possessing as he did greater statesmanlike capacities the latter, despite his birth, succeeded in wresting the throne from his brother and rival, Amin.

The unlimited authority of the prince gained in proportion to the decline of public opinion and the ineffectiveness of the public vote. The more political parties were gradually formed, the greater grew the diversity of opinion on vital questions of politics: the first and foremost among these was, indeed, the doctrine of election and succession to the throne. The party which adopted the convenient theory of letting things stand as they were, was always the most numerous. This party assumed the name of the party of the *Sunnah*.† They were always ready to accept accomplished facts and to recognise as the legally elected Caliph him who had been chosen by the most influential persons in the capital. In opposition to these stood the strict legitimists who only recognised Ali's descendants as entitled to the Caliphate; while the Kharjites, as representatives of democratic ideas, appeared on the scene as fanatical puritans who defended

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* Ibn Taghrybardy, I, p. 482.

† (See Goldziher, Vol. II, pp. 92, 98; Al Zuhri was a distinguished exponent of this principle. Vol. II, pp. 35, 38, 39. Tr.)

the most opposite views. They maintained that every Muslim, provided he was pious and God-fearing, even though a peasant or a Nabatean, could be elected Caliph of the Islamic community, and the most advanced party of the Kharjites even went the length of asserting that a sovereign or a Caliph was not necessary.* In a learned spirit the conservative majority, as against these extreme views, sought to establish their principles, and early indeed did questions relating to the title to the Caliphate, sovereignty and succession to the throne, become subjects of polemical discourse. As against the extremists, both amongst the democratic Kharjites and the legitimists (Shi'ites), the orthodox set up the doctrine that in such matters the highest authority rested with the community as a whole. In one of the oldest religio-political tracts (Kitabul Luma) it is expressly stated that it is not permissible to hold that the entire community can commit an error of judgment.† The consent of all and free election were regarded as the only source of sovereignty.‡ In the earliest times, indeed, eligibility to the throne was confined within a narrow circle, since the great majority of the orthodox limited the choice

* [In his Milal Wa Natial Ibn Hazm completely demolishes the arguments of the Alides, see pp. 92 et seq. Vol. IV. Tr.]

† Von Kremer's MS., F. 139.

‡ Shahristani, Vol. I, p. 112.

to the family of the Quraish; while the Shi'ites narrowed the circle still more, namely, to the descendants of Ali alone. The Kharjites, so far as they did not question the necessity for a supreme head of the State, did not believe in any such limitation, and asserted the eligibility of every Muslim to the Caliphate and sovereignty. All these various theories, moreover, found practical expression. In the vast extension of the Empire and in the incessant insurrections, every one of these parties—even the most extreme—attained supreme power in one or other of the provinces, and thus had opportunities for putting their political theories into practice. The Kharjites chose their Sovereign either from the lowest classes or set up republican government: while the Shi'ites became more and more extravagant in their zeal for the descendants of Ali; and ended by declaring the absolute sinlessness and infallibility of the *Imam* of the age, and recognising in him the incarnation of the divine Logos. But the great majority of the nation, as is always the case, clung to the more moderate view. When, under the first Abbasids, the Empire had reached its highest splendour, the principles governing succession to the throne and election of the princes were debated and discussed in the juristic and political circles at Baghdad, and were reduced to a fixed system. Of that system

we have the most luminous exposition in the writings of Mawardi. Before we closely examine important questions relating to these subjects on the basis of Mawardi's writings, we shall give a brief account of the life and works of that scholarly statesman, whose book on jurisprudence is one of the most instructive works in Arabic literature. Mawardi was a jurist and belonged to the Shafi'ite school. Under famous masters of Bassorah and Baghdad he had studied jurisprudence, and in several towns had administered justice. He wrote in his leisure hours, on his subject. Soon, however, he was taken out of the peaceful repose of scholarship and was plunged into the vortex of public life. The sovereign then ruling was the Caliph Kadir; but he scarcely possessed more than religious power. The Buwayyhid Sultans had carved out for themselves Iraq and Faris—the most beautiful provinces of the Empire—and even in Baghdad itself the Commander of the Faithful had no longer any real political authority.

Despite these facts the religious halo encircling the Caliph was still so great that none of these various Sultans who had apportioned among themselves the provinces of the Caliphate felt secure in the possession of his power, without obtaining a warrant of authority from the Caliph—the supreme High-Priest of Islam—who, for the

mere asking, granted him investiture and appointed him his representative and governor in all matters temporal. Mawardi largely enjoyed the favours of the Caliph, and was several times appointed a diplomatic agent to carry on important negotiations with temporal sovereigns.* He was more than anybody else initiated in the higher politics of the time, and in his political works he has brought to bear his large experience acquired in official capacities. In his chief work he sketches a system of politics, which unmistakably points to the conclusion that he did not ignore accomplished facts. The most remarkable feature of his work is his scientific independence, which, regardless of favour or disfavour, pursues its object with rigorous consistency. As Archimedes was engaged in drawing circles when the fatal sword of the Roman warriors hung over him ready for the mortal blow, so also Mawardi, with the same unconcern, discussed, in a scientific and not a partisan spirit, the rights and duties of the Caliphs, their spiritual and temporal power, from the theoretical standpoint of the orthodox Islamic jurist, regardless of the existence of the Buwayyhids. In this respect the Arab savants bear a striking resemblance to German thinkers. Regardless of the actual facts they could and did

*Cf. Gesch. der Herrschenden Ideen., p. 418; Hammer-Purgstall, Vol. VI, p. 416.

discuss theories relating to the supreme spiritual and temporal sovereignty (Imamat). The whole nation, says Mawardi, is divided into two classes: the first embracing all those who possessed the right of electing the Imam, and the other consisting of those who put forward a claim to sovereignty and had in fact a right thereto.

Manifold were the qualifications for electors and for candidates to the throne. Indispensable were the following qualifications for the electors: (1) spotless integrity, (2) capacity for judging the qualifications for leadership of the State and the conduct of political affairs. In this the inhabitants of the capital had no pre-eminence over the rest of the people; but practice, not legal theory, had settled that, since the inhabitants of the capital would be informed of the death of the sovereign sooner than the others, they could forthwith proceed to the election. Further, it is to be noted also that persons possessing requisite electoral qualifications usually resided in the capital. Mawardi, as already observed, establishes his scientific theory regardless of actual facts. He does not trouble to consider that the election of the Caliph was almost always effected by the people of the capital and the soldiery, and that generally the mass of the population had no choice but to acquiesce in the accomplished facts, or to join the standard of rebellion. The Arab Jurist, accordingly, carries out to its

full consequence the theoretical principle that all qualified Muslims are entitled to their votes in the election of the sovereign, though he cannot suppress the fact that, in practice, things are otherwise, since the capital, as a rule, expresses the final word in questions of election. According to Mawardi, the following were the necessary qualifications for a candidate to the throne:—(1) spotless integrity, (2) requisite juridico-theological knowledge to pronounce judgment in difficult cases, (3) freedom from defects of hearing, sight and speech, (4) freedom from physical infirmities, (5) necessary insight for governing the people, and conducting affairs of the state, (6) courage and boldness in defending the Muslim territory and in fighting the infidels, (7) descent from the family of Quraish.*

Among the conditions, Mawardi omits two which have been added by later jurists, for instance, by Kadhi Baidhawi in his *Tawili-ul Anwar*, and by Ghazzali in his Ihya (Vol. I, p. 147): full manhood, or, as we would say

* It is here to be noted that among the Hebrews, physical defect was an obstacle to obtaining the dignity of priesthood. The essential conditions are found in Leviticus XXI. 17 seq. Blindness, lameness, and physical infirmity should be far from the altar. For this very reason, it often happened among the later Abbasid Caliphs that when the throne was lost by insurrection, they blinded the sovereign in order to incapacitate him for ever from assuming the Government. In any event, the existence of this very idea among the Hebrews and the Arabs offers a fresh proof of the great influence of Jewish ideas upon Islam.

maturity, and the male sex.* Opinion was, divided as to the method by which election was to take place. Some maintained that election was only valid when the entire electorate of the Empire had taken part in it—reminding us of a perfect universal suffrage. Others, on the contrary, held that a smaller number would suffice. In this, indeed, they relied upon the precedents created by the election of the first Caliphs. Some jurists even went the length of asserting that an election, effected by five men of position, might be looked upon as legal. Others went still further. The diversity of opinion that prevailed in different schools comes clearly to light when we consider that some declared a plebiscite essential; others had no hesitation in leaving the election in the hands of some few persons. Remarkable indeed is the conception of the relation between the nation and the sovereign. Mawardi regards it as a bilateral compact (Iqd). If the prince-elect refused the nomination he could not be made to accept it. A necessary consequence of this view was that the acceptance of election imposed certain duties. Those duties of the Muslim sovereign, according to Mawardi, were :—(1) to uphold the fundamental principles of the Muslim religion, (2) to decide law-suits and to settle disputes, (3) to defend

* A section of the Kharjite—the sect of the Shabybiyyah—elected a woman as their sovereign. *Cf.* Gesch., d. herrsch, Ideen, p. 369.

Muslim territories, (4) to administer the penal law, (5) to guard the frontiers by keeping garrisons and making preparations for war, (6) to fight those who refused to accept Islam or to submit upon terms laid down for non-Muslims, (7) to pay the annuity from the state treasury, (8) to levy taxes and imposts according to law, (9) to appoint trustworthy men and councillors for the administration of different districts and for fiscal purposes, (10) to personally inspect and control the administration. If the Caliph, discharged and fulfilled these duties the people, as against these, had two duties to discharge on their part: (1) to render him obedience, (2) to render him assistance. If the prince, however, disregarded his duties he forfeited the throne. The two chief causes which involved such a forfeiture were injustice and mental or physical infirmity. Of the latter those of special importance were: loss of the power of judgment or eyesight. Lesser infirmities, not preventing free movement, did not involve forfeiture. In all cases where the ruler lost the throne by reason of deposition, a new election took place. The Arab jurists recognised indeed, along with election, another mode of transmission of sovereignty; *viz.*, by the nomination of the reigning Caliph. This view rested upon the historical precedents of the first Caliphs. It was further conceded that the reigning Caliph could nominate

two or three successors to follow one after another. Thus Harun appointed his three sons: Amin, Mamun and Mutamin, to succeed to the Caliphate one after another. We need scarcely emphasise the apparent opposition between the two methods of transmission of sovereignty just noted above: elective sovereignty and transmission of sovereignty by royal disposition. Elective franchise was due to the old Arabian custom of election to the tribal chieftainship by different tribes. The transmission of sovereignty by testamentary disposition, on the other hand, owed its origin to the too frequent instances of such transmission of sovereignty both among the first Caliphs as also among the Ommayyads and the Abbasids. But even when the reigning Caliph had appointed a successor, the arrangements had invariably to be confirmed by general election and homage; and no Caliph, appointing his son or kinsman as his successor, omitted to obtain the general homage by which popular approval was secured and supreme consecration obtained. The most dangerous feature of popular election, here as elsewhere (wherever, indeed, the transmission of sovereignty was not fixed on settled principles), was that the people, as a necessary consequence of electoral powers, claimed the right of declaring the crown forfeited. For deposing a sovereign the people generally met in the chief mosque

Some man of position addressed the assembly, when charges were formulated and made against the ruling Caliph, and his deposition was declared in the interest of Islam; the speaker concluding his speech by taking his ring from his finger, or throwing it on the ground, or removing his shoe and flinging it away and adding: I cast away N. N. as I do this ring or this shoe or this turban. With this the act of deposition was completed.* What has been stated above suffices to convey an idea of the Caliphate. It was hardly any better than the past Polish kingdom with its unlimited power of veto of every individual nobleman. The jurists of later times tell us of a third mode of acquiring sovereignty, *viz.*, election by force. (Al bai'at ul Qahiriyyah.) By this they understood cases of sovereignty assumed by force such as happened in times of an *interregnum* or anarchy, when no universally acknowledged sovereign ruled, and a bold party-leader violently took possession of the throne and the army without election and homage of the people, or testamentary disposition either, and called upon the Muslim community to do obedience to him to avert anarchy or civil war. It did not matter in the least, says Ibn Jam'a, if this ruler

* *Cf.* Ibn Taghrybardy, II, p. 152. Amari: Storia Dei Musalmani della Sicilia, I, pp. 137 and 138.

was ignorant, unjust or vicious. But if another usurper rose against him and deprived him of his Government, the victor was to be equally regarded as the rightful sovereign.* It is obvious from this that people had grown wiser by experience. They had learnt to take account of actual facts, and found it best to accept them. Muslim jurisprudence, in its final stage, gave an unconditional assent to the right of the stronger. Ibn Jam'a was above all a practical statesman who looked upon life as it was, and not as it cauld or should be.† How much higher does not Mawardi, then, stand with his theoretical but scrupulously moral view of sovereignty! The Caliph was in his time completely under the control of the Buwayyhids, and the Caliphate had sunk into a sort of hereditary priesthood passing from sire to son. But Mawardi left actual facts out of account, and firmly clung to theoretical principles regulating election to the Caliphate. If there were two candidates to the throne, equally entitled he was chosen who possessed higher qualifications which the circumstances of the time

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* Ibn Jam'a, Tahrir-ul-Ahkam, Fol. 7 and 8.

† Born in the year 639 (1238 A. D.) Ibn Jam'a studied at Damascus and was specially versed in canon law, science of tradition, and jurisprudence generally. He was repeatedly invested with the post of a judge, and filled other high offices. He has written on the sciences of tradition and jurisprudence. He died in 773 A.H. (1371 A.D.) Fawat, II, p. 217.

expressly called for. In times of war, election was to be made in favour of him who was daring and possessed of military talents, but in times of peace, on the other hand, he was to be preferred who possessed greater knowledge of administration. Mawardi, however, did not hesitate to give expression to the doctrine, most disastrous in practical politics, *viz.*, that a sinful Caliph might be divested of his throne, and a worthier one appointed in his place. Ibn Jam‘a, on the other hand, more practical but less scrupulous, defended exactly the opposite view.

Now that in the foregoing pages we have dealt with the theoretical speculations of the Arabs concerning the first and supreme head of the state, its temporal and spiritual chief, we proceed to the consideration of the other officers, *viz.*, those who stood directly under the Caliph,—the Minister and the Governor.

II. The Minister and the Governor.

The care of politico-administrative affairs the Caliph entrusted to the Wazir and the Governor. With the position of the Wazir and the importance of his office we have dealt exhaustively in the chapter on the administrative affairs of the Abbasids. Therefore the juristic theories regarding his position, and the extent of his jurisdiction, need only be noticed here. According to Mawardi, the necessar

qualifications for the Wazir were precisely the same as those required for the Caliph, with the single exception of descent from the family of Quraish. Moreover, the Wazir was expected to possess a corresponding acquaintance with and insight into military and financial matters. The *Wizarat* was divided, as we have already learned, into unlimited (Wizarat Tafwid) and limited Wizarat (Wizarat Tanfid). The Wazir with unlimited powers could exercise all the rights of a sovereign; with the sole exception of the right to appoint a successor to the throne. From this it is apparent that the absolute power which the Arab jurists acknowledged in the unlimited Wazir, was almost on a par with that of the Caliph. The unlimited Wazir had, independently, the power of appointing governors and other high officers without the previous sanction of the Caliph. The limited Wazir, on the contrary, could only confer such appointments with the royal assent. The unlimited Wazir could moreover give necessary decisions and instructions; while the limited Wazir could do so only in discharge of an order received from the Caliph. When the Caliph dismissed the limited Wazir, the Governors and officers appointed by him continued to remain in office. On the other hand, when the unlimited Wazir was removed from office, such removal also affected all governors and

office-bearers appointed by him, and they had to be expressly reinstated. At the end of his treatise on Wizarat from which we have drawn these particulars, Mawardi offers a characteristic side-light on the political conditions of those later periods of the Caliphate. He says: "When the Caliph handed over the administration of provinces entirely to the governors, as is the case in our day, the governor of each province could nominate his Wazir, whose position towards him was precisely the same as that of the Wazir towards the Caliph." The governors of the provinces, at that period, had almost become sovereign princes, who only formally acknowledged the suzerainty of the Caliph, and quite independently of him administered the countries under them, and appointed ministers (Wazirs). The observations of Mawardi referred to take account of the actual position of affairs (Mawardi, pp. 83—47). Next to the Wazirs and the ministers, the most important executive officers of the Caliph were the Governors of provinces. With the latter, too, the same distinction of limited and unlimited obtained. The following matters fell within the scope of a Governor with unlimited powers: (1) the supreme direction of the military affairs of his province (if no special Commander-in-Chief had been appointed), the stationing and distribution of troops and the fixing of the scale of their pay,

unless the Caliph specially controlled this and himself assigned the pay of the soldiers; (2) the supreme control over the nomination of judges (Kadhi); (3) the levying of taxes and imposts and appointment of tax-gatherers, as well as the apportioning of taxes; (4) the maintenance of public security and the preservation of spiritual matters from any innovation; (5) the administration of the police, which was divided into two branches, one attending to the public morals and the other maintaining law and order; (6) presiding at public prayers on Fridays and on festival days; (7) the equipment and despatch of the annual pilgrim caravan proceeding to Mekka; (8) the waging of war against unbelievers (if his province adjoined an enemy's territory), and the distribution of booty among the soldiers, as well as the levying of the one-fifth legally belonging to the state treasury.* The pay of the soldiers, indeed, could not be enhanced by the Governor, but if, for reasons sufficiently weighty, like famine or some other unforeseen event, the Governor found himself constrained to enhance the pay of the soldiers, he could do so without the sanction of the Caliph, but such an arrangement might only be temporary and

* (With regard to the 1/5, it seems to be based on a passage of the Qur'an, Sura VIII, Verse 42. Before Islam, ¼ of the booty was assigned to the leader of an expedition, Frey. Ein., p. 266, Apud Rodwell, p. 414, Tr.)

not permanent. It was, however, perfectly within the competence of the Governor to assign annuities to the grown-up sons of the soldiers, or to offer rewards to soldiers independent of the Caliph's consent.

After defraying all the expenses of the provincial administration and the pay of the soldiers, if any fund remained in the hands of the Governor, he was to remit it to the Caliph; but, as a matter of fact, the revenue was never sufficient for the troops, and the Governor had invariably to obtain the shortage from the central treasury.* If the Governor was appointed by the Caliph, the demise of the latter did not inevitably involve his removal from office, but if he was appointed by the unlimited *Wazir*, the death of the Wazir had the effect of putting an end to the term of office of all governors appointed by him if they were not confirmed afresh in their posts. Less extensive were the authorities of the limited Governor. He only had the control of provincial military affairs, the conduct of the administration, and the maintenance of the public peace. He had, however, no power to control the administration of justice or to interfere with the levying of taxes and imposts. In criminal matters, he had very limited powers too. All criminal matters,

* If there was any surplus of the poor tax, the Governor was not bound to send it to the central treasury. (Mawardi, p. 50).

involving an infringement of religious ordinances, belonged to the forum of the *Kadhi*, and not that of the Governor. In other criminal matters, not involving an infringement of religious ordinances, the Governor was only competent to deal with them when the party aggrieved laid his complaint before him. The supervision of public morals, on the other hand, formed part of his duty.

As for the final decision in appeals (mazálim) he was entitled to give it, if a judicial sentence had already been pronounced, but not if such a sentence had to be preceded by a trial. In the latter case he had to refer the case to an ordinary judge.*

Similarly the equipment and despatch of the annual pilgrim caravan to Mekka was a necessary duty of the limited Governor. As regards presiding at the public service on Fridays, opinion was divided among the jurists. According to the school of Shafa'i, the *Kadhi* had a

[* The passage of Mawardi whence this is taken is obscure. In any case *mazalim* do not mean 'appeals,' but 'torts,' and the sense is that the Prefect has to see to the execution of a sentence by the judge, but Mawardi does not appear to give the Prefect a right to quash the judge's sentence.

There is an interesting passage in Hariri, Makamah, XXVI. *Wa asoplahú, yoráfe'ani ila wali ut jara'im (wa) la el al hakim i fil mazalim.* Then I assaulted him so that he might take me to the Wali ul Jara'im and not to the Hakim fi Mazalim. With different officials for civil and criminal cases, cf. p. 311, Vol. I, De Sacy's Ed. Prof. Margoliouth has very kindly sent me this note. Tr.]

better title to it, but according to Abu Hanifa, the Governor.

To these observations of Mawardi, we have only to add that, generally, on the appointment of the Governor, it was settled whether he should or should not have the right to preside at public prayer. The Governor appointed with authority to lead the divine service was regarded as the highest representative of the Government. If the province was contiguous to a hostile territory, it was not open to the limited Governor to wage war against the latter without previously obtaining the permission of the Caliph (Mawardi, p. 53). Along with the two kinds of governorship mentioned above, the theoretical jurists refer to a third one, essentially different from either of the two. It is governorship by usurpation which we have noticed earlier. To the installation of a usurper as a legitimate prince, the jurists attach certain conditions which he must needs fulfil, and which were looked upon as a concordat between him and the spiritual chief of Islam. To the following conditions which had to be faithfully carried out for the purpose of securing legitimation the usurper had to pledge himself : (1) to preserve and respect the dignity of the Caliph as the supreme religious chief of the entire Muslim community ; (2) always publicly to avow religious submission to the Caliph ; (3)

to render assistance and help in all common affairs of Islam in order to manifest to strangers the unity of the Islamic community; (4) to respect the Caliph's nominations to religious offices, *e.g.*, *Kadhis* and *Imams*; (5) to see that taxes prescribed by religious laws were levied with justice and equity; (6) to watch that criminal justice was administered with fairness; (7) to urge the people to maintain the true religion and to keep them back from what God has forbidden.

III. Military Affairs.

According to the principles of Muslim jurists the main object of the military organisation was war against the infidels, *viz.*, *Jehad.* The very same distinction, as regards limited and unlimited power, obtained with the Commandership of the troops as it did with the *Wizarat* and Governorship.

To the Commander with limited power, were only assigned the command of the troops and the control of military operations; while on the other hand, to the unlimited commander were left all matters connected with military affairs, *viz.*, the distribution of the booty and the right of concluding peace. The troops were divided into two classes: namely, the regular army (Mustarzikah, Murtazikah) which received its pay from the state-treasury and which

was entered on the army register, and volunteers (Muttawwiah) consisting of Beduins, peasants and townsfolk who voluntarily, from patriotic or religious sentiments, took part in the war. These received no fixed pay, nor were they entered on the army register, but they received pecuniary assistance from the poor tax. They were no more entitled to draw upon the state-treasury than the regular troops to draw upon the poor-tax (Mawardi, p. 59).

Rights and duties of the Soldiers.

The Muslim warriors were allowed to kill their unbelieving opponents whether they had vanquished them in war or had secured them by some other means. As regards the aged, the monks and the clergy, jurists differed. Some maintained that these might be killed, others were inclined to hold a contrary view.* On the contrary it was forbidden to kill women, children, slaves, or servants. But if women and children took part in the war they could be killed, but only so long as they actively participated in it ; not if they took to flight (Mawardi, p. 68). In dealing with the booty the Muslim soldier was to conduct himself with the greatest conscientiousness, and

* As a general rule the clergy were spared. The Arabs regarded the priestly order, as Derweshes, with a certain superstition, and did not like to lay hands on them. Cf. the case at the taking of Syracuse, which is an instance in point. Amari, Storia dei Musulmani della Sicilia, Vol. 1, p. 403.

was not to appropriate anything for himself.* Finally he was to be influenced by no tie—domestic or friendly—which might link him to an enemy.

Duties of the Commander-in-Chief.

The following were the duties of the Commander-in-Chief : he had to keep the troops in readiness for march or actual engagement, and to pay special attention to the good condition of the beasts of burden. He had to appoint officers (Nakyb) and subordinates (Arif), and to give orders for clearing the army of spies and untrustworthy persons. It was the duty of the Commander-in-Chief to persist in war against the infidels, and not to abandon it until the enemy either accepted Islam and received equal rights and duties with the rest of the Muslims, or was completely reduced to subjection, or capitulated on payment of tribute to the Muslim ruler and entered into his protection. It lay within the power of the Commander-in-Chief, when such an authority was given to him by the Caliph, to conclude a truce (Mawardi, pp. 59 et seq.).

Principles Regulating the Conduct of War.

The following were the principles governing the declaration of hostilities. The enemy was

* The strict observance of this rule aroused the admiration of Christian chroniclers. Cf. Amari, Vol. II, p. 71.

divided into two classes: (1) those who had been summoned to accept Islam or to submit; (2) those to whom such a notice had not been given. As regards the first, they might be attacked without a fresh declaration of war. As to the latter, they were to be invited in the first instance to accept Islam, or to submit, or to capitulate, and were only to be attacked in case these applications had proved fruitless (Mawardi, p. 61). Even on the battle-field, if the infidel accepted Islam, complete security of person and property was to be accorded to him. If, however, the infidels were vanquished by force of arms, they became prisoners of war with their women and children, and might be sold as slaves.* It was also permissible to kill them (this applied only to men), or to exchange them for Muslim prisoners, or to set them free.† The last alternative was intended to induce the infidels to conclude a capitulation with Muslims. At the conclusion of the capitulation they had to pay, once for all, a fixed sum which was taken as war-booty, and in addition to it an annual tribute, upon the punctual payment of which depended the peace obtained under the terms of the capitulation (Mawardi, pp. 82 and 83).

* We do not hold that the Christian opponents of the Arabs were more civilized than they. The Byzantine generals simply sold the prisoners of war, and, like the Arabs, divided the booty. Amari II, 441.

† (There is an interesting discussion on this subject in Ibn Hazm's Maratib-ul-Ijma, Bankipore, M.S. F. 27 B. Tr.).

Never were Muslims permitted to put hostages to death; not even in the event of an actual breach of treaty on the part of the infidels. It was better, so held the Arab jurists, to meet a breach of treaty with faithful adherence rather than to repay treachery with treachery (Mawardi, p. 84). The hostages, on this account, were not to be restored to the enemy so long as hostilities had not opened, but as soon as war commenced they were to be sent back to their homes. Women who in the meantime had accepted Islam were not to be restored to the custody of their husbands but, at the same time, they were not permitted to retain their dower. As regards actual warfare, it was permissible to use war-machines, ballestas, and catapults, and to destroy or burn or attack the enemy's settlement. It was also permitted to fell trees and palms belonging to the enemy, but only for good reasons. Wanton waste, however, was never sanctioned. Moreover, it was permitted to destroy the sources of water, even if women and children were to suffer thereby; since this was considered eminently suited to bring the enemy to bay. The enemy could be killed, but no one, either living or dead, was to be burned or mutilated; not even corpses.* Muslim soldiers were at liberty to supply themselves, without payment, in the enemy's country, with what

* (*Cf.* the saying of Ali, quoted in Fakhri, p. 123 Tr.).

provisions and forage they could find. Yet they were not allowed to appropriate clothes, or pack-horses, or anything else, except in dire necessity. If want had compelled them to take anything else, except food or forage, they had to account for it when the booty was collected, and were liable to have its value deducted from their share of the spoil (Mawardi, pp. 85 et seq.).

Quite different from the rules of war obtaining against the unbelievers were those of war against apostates, or those who had rebelled and taken up arms against the Government. Those who had fallen away from Islam were to be killed, whether they went over to a religion tolerated by the State or not (for instance idolatry, manichæanism).* The estate of an apostate was forfeited to the Government. According to Abu Hanifa the State might only forfeit property acquired subsequent to the apostacy. Prior acquisitions fell to the apostate's legal heirs. According to Abu Yusuff, on the other hand, his entire property, without exception, devolved on his heirs (Marwadi, p. 91). All these directions regarding apostacy applied only to individual cases; but when masses fell away from Islam and a whole district or province joined them, after being summoned they were to be brought back to their faith with war, and were

* This rule still prevails in genuine Oriental countries, and is in full force in Persia and Morocco. In Turkey it has long been set aside.

to be treated precisely as if they were unbelievers. With apostates, indeed, no truce or capitulation could be concluded. Nor might they or their families be made slaves, as was the case with infidels; nor might their property be declared war-booty, but it fell either to the State or to their legal heirs (Mawardi, pp. 92—94). As regards sectarians, the following rules obtained: in individual cases, merely administrative measures were adopted to bring them round. If, on the contrary, they had founded a special party which assembled in or occupied a particular portion of the country, war was not to be waged against them so long as they rendered obedience to the Government and fulfilled their duties towards it. Different was the case if they had refused to pay taxes to the Government, or chose a special *Imam* from among themselves. In such an event military measures were to be adopted against them (Mawardi, p. 98). But even in this case they were not to be treated like unbelievers, but with some consideration (Mawardi, p. 100). As regards way-layers and robbers, their punishment was prescribed by the Qur'an. They might be killed or crucified, or might have their hands or feet cut off, or be banished.

IV. Administration of Justice.

Justice was administered by *Kadhis*, either appointed by the Caliph direct, or by *Wazirs*, or

Governors invested with the necessary powers.* The following were the conditions for the post of a judge: (1) Male sex and majority. Abu Hanifah, however, maintained that a woman might exercise the functions of a judge, but only in those cases in which her testimony could be legally admitted. Abu Jarir Tabari asserted, on the contrary, that a woman might hold the office of a judge in all cases. (2) The full possession of mental capacities. (3) Free citizenship. The slave was thus excluded from judgeship. A freedman, on the contrary, might administer justice. Even, to slaves, however, it was permitted to give legal opinion (Fatwa), since the position of the *Mufti* was not recognized by the State. (4) Faith in Islam. No unbeliever could, therefore, be appointed as judge over Muslims, or over unbelievers either. Abu Hanifah concedes that an unbeliever might exercise judicial authority over his co-religionists; but his decisions could have no binding force. (5) Irreproachable integrity. (6) Freedom from any defect of sight or hearing. Malik does not consider blindness as a ground for exclusion. (7) Knowledge of law; both theoretical and practical.

The appointment of a judge could be effected in a two-fold manner; *viz.*, by written or verbal nomination by the sovereign (Mawardi, p. 114).

* (The early Muslim Judges. Ibn Qutaibah. p. 227 Tr.)

The consent and acceptance of the person appointed was invariably necessary. It could be orally communicated on the spot or sent in writing later on. In all such appointments it was necessary that the place or the town should be indicated for which the judge was nominated (p. 116). The appointment, moreover, was to be officially announced. The Prince could, in like manner, divest the *Kadhi* of his post. The latter could also resign his office (p. 116). The deposition or the dismissal of the *Kadhi* had in the same way to be publicly announced. General or limited was the authority conferred upon the *Kadhi*. In cases of general authority the following were the duties of the *Kadhi*: (1) to decide cases either by settlement or judicial pronouncement; (2) when the case had been established either by admission or by legal evidence, to compel the defaulting party to satisfy the judgment entered against him; (3) to appoint guardians for those who were incapable of dealing with their property; *e.g.*, lunatics, minors. (4) The supervision and administration of *Waqf* properties. (5) Execution of testamentary dispositions according to the direction of the testator. (6) Charge of the remarriage of widows. (7) Execution of punishments prescribed by religious laws. As regards the infringement of religious laws the decision fell entirely within the competence of the *Kadhi*, but as regards Municipal laws the *Kadhi* might

only take action upon complaint. (8) The supervision of streets and buildings within his jurisdiction. He had to see that no one disfigured the streets and open spaces by erecting projecting roofs or unauthorised buildings, etc., etc. (9) The supervision of the law officers (notaries *Shohud*, secretaries *Umâna*) and the sub-judges whom he could appoint or remove. (10) Impartiality in his decisions as between high and low, powerful and weak, plebeians and patricians. Where no special collector of poor-tax was appointed, it fell to the *Kadhi* to collect this tax (*Sadakah*) and to distribute it among persons entitled to it.* To preside at the Friday prayers was permitted to the *Kadhi* if no special officer was appointed by the sovereign (Mawardi, pp. 121-122). But a sregards a *Kadhi* with limited judicial powers, he was restricted to duties specified in the letter of appointment. He only adjudicated cases where proof was furnished by way of confession or cases of debt; but he was not authorised to deal with cases involving questions of marital rights, duties and disputes. The judge with limited powers, therefore, had no authority to deal with matters other than

* (But alms are only to be given to the poor and the needy and those who collect them, and to those whose hearts are won to Islam, and for ransoming, and for debtors, and for the cause of God and the way-farer. Qur'an, Sura 9, verse 60. The law on this subject is based upon this passage of the Qur'an. See Dr. Weil's observations on this Sura, Moh. Der Prophet, pp. 279 et seq. Tr.)

those we have already stated. The judge was not to accept presents from any of the parties to the suit, or any other person living within his jurisdiction, even if he had no case pending before him.

Further he was not permitted to prolong cases, or deny admission to either party during his leisure hours. In cases affecting his parents or children, he might not pass judgment favourable to them. Nor might he give evidence in their favour; but against them he might. In like manner it was forbidden to him to give evidence against his enemy; but in his favour he might.

If the *Kadhi* died all his staff forfeited their posts. But if the sovereign died, the judges appointed by him were in no way affected. If the inhabitants of a town, on the other hand, during an interregnum, chose a judge in case of a vacancy, such nomination was legal, but only if the sovereign was not alive (Mawardi, p. 128).

*V. Board for the Inspection of Grievances. Nazar ul Mazalim.**

One of the characteristic institutions of Arab state-politics was the control of the administration and judiciary, although its practical efficiency did not always come up to its theoretical importance. The function of this

* Mawardi, pp. 128-164.

institution was to set right cases of miscarriage of justice which occurred in the administrative and judicial departments, and further to take cognizance of petitions based upon miscarriage of justice. It is obvious that the incumbent of this office had to command sufficient influence to ensure, for his decisions, unconditional obedience, by his personal position and reputation for impartiality and justice. If the President of this Board happened to be a *Wazir* or an unlimited Governor, a special nomination was not needed, since his office itself necessarily constituted him a custodian of law. But if he was only a limited *Wazir*, or a limited Governor, a special nomination was required. Abdul Malik was the first Muslim ruler who heard appeals and received complaints. In cases of involved law points he was wont to make over the complaint to his Kadhi, Abu Idris Audi.* After him it was specially Omar II who zealously occupied himself with petitions of complaint which came to him regarding oppression or injustice. The later Caliphs followed his example. Of the Abbasids, Mahdi, Hadi, Harum and Mamun generally received such complaints in public audience. The last Caliph who kept up this old custom was Muhtadi.† Only later was this supreme board either administered by a

* Mawardi, p. 131.

† *Ibid*, p. 44.

specially appointed officer, or by some influential person at the court whom the Caliph commissioned for that purpose. Under Muqtadir, whose mother then ruled the Empire, the authority to hear petitions and complaints was given to her mistress of the robes, who was wont to hold her sittings every Friday, surrounded by jurists, judges and notabilities, in the mausoleum erected by the mother of the Caliph, in the Rusafah part of the town. The decision was immediately given at each sitting, bearing the signature of the mistress of the robes.*

This institution struck root even on European soil, and King Roger, the Norman ruler of Sicily, accepted and established, among other Arab institutions, this board of Inspection (Diwan-ul-Mazalim).† The President fixed a day to receive applicants with their petitions.‡ His office consisted of :—(1) court ushers for summoning the parties and maintaining order; (2) judges and administrative functionaries for discussing legal arguments and judicial procedure; (3) men learned in law for solving serious questions of law; (4) secretaries and clerks for recording the minutes of the business; (5) recorders to certify judgments and directions of the court.

* Ibn Taghribardy II, p. 203. [About Rusafah, See Guy Le Strange, Baghdad, pp. 189 et seq. Tr.]

† Amari, III, 445.

‡ Mawardi, p. 134.

According to Mawardi the following were the duties of the chief officers of this board: to investigate into the oppressive conduct of the executive authority towards the people and to initiate proceedings *ex-officio,* even if no complaint was made; supervision of the officers connected with the finances or taxes, and the officers of the chancery; also supervision over the due payment of the salary to the troops; return of property unjustly acquired; supervision and control of *Waqf* properties; the execution of those judicial decisions which the judge, by reason of insufficient authority or executive powerlessness, could not enforce; supervision of officers charged with the upholding of moral principles and maintenance of public order, protection of divine services; *e.g.*, services on Fridays, festival days, pilgrimages, Jehad, and the obligation that none of these duties was neglected; discussion and decision of disputes in which laws were to be strictly observed; and finally to see that no decision of the *Kadhi* or administrative authorities, opposed to the principles of law, was upheld or published.* In some points the authority and the judicial procedure of the President of this Board were distinguished from those of the *Kadhi*. He was not bound, like the *Kadhi*, to decide any dispute at once, but might defer his decision until complete

* Mawardi, p. 141.

materials were placed before him. He might refer the parties to a competent person or to an arbitrator, which the *Kadhi* was not competent to do. He might have oaths administered to the witnesses at once, or summon and hear witnesses on either side, while the *Kadhi* had to hear the witnesses of the complainant first, according to the legal maxim "the proof lies upon the complainant."* This theory of judicial procedure has been most minutely worked out by the Arab *savants* of the different juridical schools, and really forms the basis of the several modes of proof obtaining in the several schools: proof by admission, oral or written proof, proof by oath or documents. These form subjects of extensive discussion.† The position of the President of this Board as against regularly appointed judges has been a subject of constant debate. Thus much is clear that the position of the President was far higher than that of the *Kadhi*, since the latter stood under his supervision and received directions from him. The President could himself decide legal disputes, or refer them to the *Kadhi* for decision, or make them over to arbitrators. In his decisions unlike the *Kadhi*, he was not bound by the strict letter of the law. He could hear witnesses on either side; and finally—which was

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* Mawardi, p. 142.

† *Ibid*, pp. 142-160.

most important—he decided not according to the letter of the law but according to the principles of equity.*

VI. The Overseer of the Market and Morals.

(Al Hisbah).†

The office of the Prefect of Police (Muhtasib) held an intermediary place between the judiciary and the board for the inspection of grievances. The most important duties of the Prefect of Police were to see that improper weights or measures were not used; to prevent fraud and use of counterfeit wares in sales; to compel debtors to pay their debts. We must note, however, that the *Muhtasib* only interposed upon application of the party, and was not competent to adopt coercive measures, as he had no judicial power. It was no part of the duty of this officer to decide judicial matters, unless the accused confessed his guilt and was in a position to carry out his obligation, or to repair the injury caused by him. It did not lie within his power to adopt a judicial procedure. It was different, indeed, when he received express authority. He then combined the functions of a muhtasib and a judge.

The rule generally obtained that, when the accused denied his guilt or questioned his

* Mawardi, p. 160.

† *Ibid*, pp. 404 et seq.

liability, the jurisdiction of the *Muhtasib* ended and that of the *Kadhi* began, for in such cases witnesses had to be heard, oaths administered, and evidence tested. We see how carefully and precisely the spheres of different offices were defined to avoid a conflict of jurisdiction. The Chief of the Police had power to interfere *ex-officio* without receiving any complaint; while only upon petition might the *Kadhi* set the law in motion. The duty of the Chief Police Officer, may be summed up in the maintenance of good morals, and so far as lay within his power, in preventing the commission of acts and offences forbidden by law. As regards religious matters, he had to see that prayers were conducted in the prescribed form and innovations avoided. Moreover it was his duty to uphold institutions, and to make regulations conducive to public prosperity and general security. It was essential, in the interest of public morality, that this officer should find suitable husbands for widows, and see that no divorced woman married before the expiration of the legal period ('Iddah). Further it was his duty to investigate complaints regarding paternity, to protect slaves and servants from acts of cruelty on the part of their masters, and to punish owners of beasts of burden for ill-feeding or overloading them. It was also his duty to see that foundlings, committed to his

care, were properly looked after, etc., etc. For the sake of public security and public morality he had to forbid visits to questionable quarters of the town, and to see that men did not show themselves with women on streets and public places. Police regulation forbade the public sale of wine and the playing of musical instruments in public places, and sanctioned the arrest of drunkards. The duty of the Head of Police was to stop such improprieties, but only if they occurred in public places. It was, however, forbidden to him to meddle with the secrets of families or to enter into private houses. Only when sure and certain information reached him that a criminal offence was premeditated, which, if once committed could not be undone, was he permitted to take up the matter and enquire into it. In all other cases of lesser importance the rule obtained forbidding prying and unwarranted interference with private affairs. As regards trades or transactions forbidden by law, *e.g.*, usury,* unlawful sales, etc., etc., it was the duty of the police to stop or punish the infringement. To this category belonged also the counterfeiting of goods, extortionate charges, and so on. Specially penal was fraud in weights and measures. It was, accordingly, the duty of the Head of Police to enquire into the

* (See Weil. Moh. Der Prophet, p. 299. Tr.)

weights and measures of merchants in the *bazars*, to provide for a standard weight, and to prohibit the use of all unstamped weights and measures. It was also the duty of the Head of Police to see that no one was molested in his house by the obtrusive glances of his neighbour, that Christians did not build their houses higher than those of the Muslims, that the former wore the *Jhiyar** by which they could be distinguished from Muslims, and, finally, he had to punish Muslims for slandering or ill-treating persons of other faith.† One of the most important duties of the market and street police was to see that shops did not protrude too far into the street so as to occasion obstruction to passers-by. Further it lay with them to grant permission for the erection of balconies, projections to buildings, canals and latrines, provided they would not cause any interference with the public traffic. The Prefect of Police had also to forbid castration of men and animals, and to punish offenders and levy compensation if demanded. We have yet by no means exhausted the different duties of the Prefect of Police, but we have only dealt with the most important and

* Jhiyar was a yellow piece of cloth which Christians and Jews had to fasten on their clothes, to distinguish them from Muslims.

† (Among the public functionaries under the Omayyads of Cordova we find one who was charged with the special protection of the persons and interests of Jews and Christians. Burke, History of Spain, p. 117, note 1. Tr.)

noticeable features from the point of view of Islamic civilization. It is, however, enough for our purpose, as showing at that time the activity and efficiency of the police. In the days of her splendour, with a population of a million inhabitants Baghdad required a good and energetic police force. We will only now add from Mawardi that the Prefect of Police had also to pay attention to dress and outward appearance, and, specially, to punish men who dyed their grey beards black in order to gain the favours of ladies. Military officers and warriors taking part in religious wars were, on the contrary, permitted to dye their hair.*

VII. Finances.

We have already become acquainted with the outlines of the principles of taxation in the chapter dealing with the administrative machinery of the patriarchal epoch. But with the marvellous growth of political institutions under the Abbasids, there arose the necessity of completing financial legislation, which was undertaken with as much zeal, as admirable ingenuity by the juristic school of Baghdad. Proceeding upon the lines of the political institutions of the first Caliphs, looked upon as the unalterable basis of law, they built a magnificent political fabric suited to the altered conditions

* Dyeing of the beard with *Henna* or Katan was permitted to all.

of the times. We now seek to describe this in its broad features, selecting Mawardi as our guide. The following were the sources of revenue of the Muslim community * :—Property-tax (Sadakah, Zakat), revenues derived from the payment of tributes from subject races, the war-booty, capitation tax, tithe, and land-tax.

1. *Property-tax.*

On every Muslim was the property-tax obligatory. This, indeed, was the only legal tax which he had to pay, but it was only on property capable of augmentation either by itself or by use. Subject to this tax were properties either public, such as arable lands, fruits and herds (of cattle or sheep), or private, which might easily be concealed, like gold and silver; commercial wares, etc., etc. The taxgatherer had only to look to properties of the former kind, but as regards the latter he had to leave it to the conscience of the individual to discharge his duties. The refusal to pay this tax was deemed an act of open revolt against the Government, and justified the use of force, even of

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* The property-tax, called also poor-tax, is an old Semitic institution which existed even among the Hebrews under the very same name (Sadakah). *Cf.* Haneberg; die Relig. und Alterthümer der Bibel, part, II p. 583. Also Saalschütz: Mosaiches Recht, Part IV, Vol. I, pp. 282, 355 and 6. Mos. 14, 28; 29. (See Weiner, Studies in Biblical Law, p. 14. Tr.)

arms. The following were the objects upon which this tax was levied :—

A.—Beasts of burden, *i.e.*, camels, cattle and sheep.

B.—The produce of date plantations and orchards. Upon this opinion differed. Shafa'i only declared the produce of date plantations and vineyards taxable. All other fruits he held as exempt.

Abu Hanifah, on the contrary, declared all fruits taxable. Moreover, the duty to pay tax only began when the fruits were fit for use. If the crop had been gathered in before being ripe, no tax had to be paid. As a general rule, everything under 5 *last* in weight was free from taxation. But Abu Hanifah admitted no such limitation,* and declared everything taxable. This tax was usually levied in kind. The expected quantity of the harvest was valued, and security for the delivery of the share of the tax was taken from the proprietor, who was then left free to deal with the harvest. The measure of this tax was as follows : 10 per cent. upon lands, not artificially irrigated, and 5 per cent. from such lands as required artificial irrigation. If a difference of opinion occurred between the tax-gatherers and the owners of the land as to the class to which the land belonged, the declaration of the latter on oath was accepted, and the tax-

* A *last*, according to Abu Hanifah, is equal to 60 sal' and 1 sa'—5⅓ Iraqian Ratl.

gatherer had to act accordingly. If the harvest failed, after the assessment of the prospective crop, and before its collection, the liability to pay the tax ceased.

C.—*Useful plants* (zuru'). According to Abu Hanifah, all useful plants were taxable ; according to Shafa'i, only those cultivated for food. According to his view, however, pulse and grains were free from taxation. The tax upon the useful plants fell due immediately upon their attaining full growth, but the tax might only be collected after the plants had been threshed and winnowed. Exempt from taxation were quantities under 5 *last*, but Abu Hanifah would not make this exception.

D.—*Silver and gold.* The tax levied on these was a quarter of the tithe, that is 2½ per cent. Everything under 200 *dirhams* was, however, exempt from taxation. Upon 200 *dirhams* and upwards, 5 *dirhams* were levied. As for gold, the tax was levied upon 20 *mithkal* and upwards, even if it exceeded by ½ a *mithkal.* Coined or raw metals were similarly taxed.

E.—*Mines.* As to this jurists differed. Abu Hanifah declared everything taxable which, like silver, gold, brass or copper, could be melted. Others, which could not be melted, being either brittle or fluid, he declared as free from taxation. Abu Yusuff held everything serving as an ornament, such as precious stones, as taxable.

According to Shafa'i the tax on gold and silver and even pure metal could only be levied after they had been melted or purified. There were three views as regards the rate of taxation: according to the first $2\frac{1}{2}$ per cent. was to be levied, according to the second 2 per cent., and according to the third it depended upon the cost of production of the metal.

The rule of $2\frac{1}{2}$ per cent. obtained as regards hidden treasures.

Disposal of the revenue arising from the poor-tax. The funds raised from the poor-tax were to be used as follows:—(1) Poor and helpless. The highest figure which Abu Hanifah fixed for such as these was not to exceed 200 *dirhams* or 20 *dinars.* (2) The tax officers having a claim to payment from the 'Sadakah' fund were either such as busied themselves with the levying of the taxes or such as had to perform the higher duty of distributing the 'Sadakah' fund. They received a corresponding remuneration out of the fund. (3) The third class of pensioners, out of 'Sadakah' fund, consisted of those whom the Qur'an calls 'gentle-hearted' *i.e.*, those persons who had been won over to Islam by presents, or in view of other temporal advantages. In later times this term included all those who were employed for the defence of the empire, and finally those who were induced to work, in the interest of

the Muslims, in making their adherents and tribes-men accept Islam. Every one of these dependants or tribesmen might be supported from the 'Sadakah' fund, provided he was a Muslim. If, however, he professed a different religion he might not be paid out of the 'Sadakah' fund, but out of the general treasury. (4) The fourth class was that of slaves to whom help might be given out of the 'Sadakah' fund to purchase their freedom. Even slaves according to Malik could be purchased out of 'Sadakah' fund with a view to their Emancipation. (5) The fifth class consisted of—(*a*) those who, in course of private business, had fallen into debt (*b*) those who had incurred debts in the interest of the State and Islam. The debts of these were to be paid in full. (6) To the sixth class belonged those Muslims who had voluntarily joined the religious war. Their travelling and maintenance expenses had to be paid out of the 'Sadakah' fund. (7) The seventh class consisted of helpless strangers.

The 'Sadakah' tax of every town and every district was always to be distributed among the deserving persons of the locality, and only if no such were found might the 'Sadakah' fund be transferred to another place. Excluded from participating in the 'Sadakah' fund were the members of the two Mekkan families of Muttalib and Hashim. (The prophet belonged

to them, and it was considered unworthy for them to take a share from it). From the 'Sadakah' fund, moreover, no unbeliever could receive donation, though Abu Hanifah, with certain reservations, concedes for a *dhimmi* a share in the 'Sadakah' fund.

The slave was just as little entitled to participation in the 'Sadakah' fund except for the purchase of his freedom. Finally a rich man, or a near relative of an officer entrusted with the levying or distribution of the 'Sadakah' fund, was debarred from participating in it.

2 *The Public State Revenue.*

Another important source of state revenue was payments made by subject races in consequence of special capitulations or peaceful negotiations. Such payments were called 'Al Fai.' To this class also belonged moneys paid for obtaining truce with Muslim soldiery, the capitation tax, the tithe levied upon merchandise wares of infidels coming into Muslim territories for purposes of trade, and finally the land-tax (Khiraj).

According to a verse of the Qur'an (Sura 59, 7) it was held that the whole income should be divided into five equal parts, of which one portion was to be placed at the free disposal of the Prophet. This fifth of the general State-Revenue, standing at the entire disposal of the Prophet and then of his Successors, was to be divided into

four shares according to the Arab jurists, adepts in the art of sub-division and classification: (*a*) for the Prophet himself: (*b*) for the assistance of the relatives of the Prophet (Banu Muttalib and Banu Hashim) and their dependents; (*c*) support of orphans; (*d*) for poor and helpless travellers. The remaining 4/5ths according to the prevalent opinion, were to be, wholely and solely, used for the pay and requirements of the soldiers. According to another opinion the other expenses of the Muslim State were also to be defrayed out of it. A severe distinction was made between those entitled to relief from the 'Sadakah' fund and those who had a claim to assistance upon the general State-Income. To the first group belonged those who were not of the military class. Those having a claim upon the general State Revenue were, primarily warriors and defenders of Muslim territories. The members of the two families of the Muttalib and Hashim might collect the general State Revenue and might also fill the lucrative posts of tax-collectors, but as regards the 'Sadakah' it was expressly forbidden to them. The collectors of the State-Revenue had no right to distribute the moneys realised. This was the supreme prerogative of the Sovereign alone. The collectors of the 'Sadakah' tax, on the contrary, might equally attend to its distribution. We now proceed to the details of the State-Revenue.

CHAPTER VII.

The Military System of the Caliphate.

The astonishing success of the Muslim troops against the Persian and Greek armies and later against the Goths in Spain, is alone sufficient to point to their superiority over their rivals in military organization. But, to this day, little is known about their military institutions. Those of Omar, which we have learnt to know earlier, presumably remained, under his immediate successors, essentially intact. At all events, no records have been preserved which could assist us in presenting an accurate account of that period. Othman's rule was too brief, and the system of military organization, prevailing hitherto, stood so well in the unbroken series of wars, that one would scarcely have thought of introducing any drastic change therein. The Civil War, which began with the election of Ali to the Caliphate, and ended with his death, fully occupied the attention of the contending parties, and both sides fought with the very same means and methods. By the unceasing wars, passions had grown fiercer, and conflicts had become more and more bitter and sanguinary.

In the so-called battle of the Camel, between Ali and the leaders of the party disputing his

election to the Caliphate, there fell on the side of the latter 13,000 men, while the former lost 5,000, although the battle lasted only a day and was fought very clumsily with the old instruments of warfare. In the battle of Siffin, only six months after, which lasted ten days, there fell no less than 70,000 men.* The division of the troops in this battle, was still the old one; *viz.*, according to tribes. The arms consisted of sword and shield; bow and arrow; lance and javelin. But it is impossible to ignore even then a perceptible progress in military affairs. We hear of a body of troops consisting of 4,000 men, distinguished from others by green turbans, and on that account called 'Corps of the Green.'† Similarly the Syrian army was considerably strengthened by arranging the fighting units according to tribes. The division into army-corps, introduced by Omar, continued undisturbed; for the two legions of Hims and Kinasryan are expressly mentioned. The method of warfare, however, was the old Arabian method. Hostilities began with individual fights, and only after a series of such skirmishes, did it come to a hand to hand fight in which the cavalry attacked from both sides. With the accession of the Omayyads an

* Mas'udi, IV, pp. 293, 387.

† Ibid, p. 356.

important change was speedily effected. It appears that the Arabs in their wars with the Byzantines had learnt the advantages of Roman, Military methods, and hastened to adopt them as their model. Thus we find that even under the Omayyads the Arab generals, after every day's march, pitched their camps quite in Roman fashion, provided with two or four doors and fortified by rampart and ditches.* This practice, the Arabs doubtless learnt from the Persians, who had learnt it from the Romans, for the very name by which they describe the ditch is a Persian word (*Khandaq*).† These fortified camps were used throughout the Omayyad dynasty, and were not unknown even under the Abbasids, up to the time of Mamun, but later it fell into desuetude.‡ But not merely during their march did the Arab generals, like the Romans, know how to protect themselves by means of fortification against sudden attacks. In all conquered countries they established permanent military stations, at important strategical points, where they planted a corresponding number of military colonists who settled down

* Thus in the wars of Muhallab against the Kharjites, Ibn Athir, IV, pp. 162, 163, 280, 325. Among the Persians even fortified camps were usual. Ibn Tagrabardy, I, 340. De Goeje, Frag. Hist. Arab, Vol. I, p. 194.

† For the Persian mode of warfare let us compare the observations of Constantine Porphyrogenitus in the Tactica.

‡ Ibn Khaldun, Proleg, II, 83.

with their families and received an annuity; nay, were even provided against war risks—a provision which accrued for the benefit of their heirs. Omar interdicted the troops who had thus settled down, from engaging in agricultural pursuits.* Omar established four such permanent military stations in Syria. He afterwards divided the entire Arab troops of that province into four army-corps.†

In the same way, in Egypt there arose the military station, near the old fortress and Coptic city of Babylon, which later received the name of Fustat. Similarly Alexandria, being exposed to naval attack, was provided with a strong garrison, which was frequently changed. But infinitely more important than those permanent Syrian and Egyptian camps were the two great military stations of Basrah and Kufah in Babylonia, planned and established by the Arabs directly after the conquest of this country. The sites, most happily chosen, testify to their sound, strategical sense and insight. A division of the army camped (in the year 14 A. H. 635 A.D.) on the ruins of a *quondam* settlement (Khuraibah). In his report to the Caliph, the officer in command pointed out the necessity for a Camping ground where the troops might rest in winter and recover from the fatigue and exer-

* Cultargeschichtliche Streifzüge, p. 64.

† Beladhuri, p. 152. Gesch. d. herrsch, Ide, p. 329 note.

tions of war. For this purpose, he proposed the place where he had just taken up quarters, and justified his choice on the ground that it was within easy reach of water, and possessed abundance of reed which made good fuel and furnished excellent pasturage. Omar consented, and thus arose the first military settlement, out of which grew the town of Basrah. The soldiers built their huts of reed, which they pulled down on starting for an expedition and set them up again on their return. Soon the population increased; and more permanent dwelling houses, public buildings, a mosque, a Governor's palace, and a prison were built. True, these buildings at first were of clay and unburnt bricks.* But, as early as the reign of Muawiah, his Governor built the mosque with burnt bricks and mortar, with roof of teak-wood, and beautiful stone pillars.† The number of troops, quartered here at first, is said to have been only 800. The oldest authorities give us the following information on the origin of Kufah:—

Omar issued orders to the general of the troops in Iraq to establish for his soldiers a

* The breadth of the main street of Basrah, the Mirbad, (Forum) was 60 feet. The other important streets (Shari) were 20 feet broad, the by-lanes (Zukak) 7 feet. In the midst of every quarter of the town was a place for tying up horses, and also a burial ground. Mawardi, Cap. XV.

† Beladhuri, p. 346.

strong and fortified place of meeting and shelter which should not be cut off from Arabia by water-way. At first he thought of pitching his camp at Anbar, but the men suffered so frightfully from the gnats that they were compelled to look for a place close to the desert on a somewhat higher elevation. Thus was the place chosen where Kufah was built later. The general marked off the boundaries of the settlement and assigned special quarters to the different tribes according as they belonged to the South Arabian or the North Arabian branches. He established, at the same time, a mosque and a Government building, in front of which he left a large space which might serve as a *Bazar* or a place of meeting. Of the South Arabian there were 12,000, of the North Arabian about 8,000 who formed the first settlement. Every one of the various tribes naturally lived in its own quarter of the town, had its own mosque, and its own burial ground. There also settled some thousands of Persian warriors who had capitulated at the battle of Qadasiyyah, and for whom Omar had set apart an annuity of 1,000 dirhams. Thus arose Kufah in the year 17 A. H. (638 A.D.)* A glance at the map suffices to prove how carefully the sites of the two cantonments were chosen. Kufah commanded the

* Beladhuri, pp. 272, 273, 275, 346 et seq. Ibn Athir, II, p. 411.

commerce of the Euphrates; Basrah, on the other hand, served as a connecting link with the sea: both towns had the desert at their back, whence they could receive support and fresh levies of troops. The importance which the two places soon acquired appears best from the fact that only thirty years later under the Governor Ziyad, according to the pay register of the soldiers, the number of men capable of bearing arms stood as follows:—

Basrah counted 80,000 men; their families consisted of 120,000 persons *

Kufah had at this time 60,000 men, and their families numbered 80,000. When Ziyad-ibn Abi Sufyan was appointed Governor of Khurasan in A. H. 51 (671 A. D.), he took from these two towns no less than 50,000 people, and planted them there;† but the more these towns acquired wealth and prominence the stronger grew the desire among the inhabitants to evade the burdensome duties of military service, and instead of encountering dangers in barbarous lands, to pass their days comfortably at their home and hearth and enjoy the advantages of town-life and settled conditions. Basrah and Kufah soon became the centres of dangerous insurrections, and when the fierce war of the puritanical sect, known under the

* Beladhuri, p. 350. Ibn Athir, IV, p. 108.

† Beladhuri, p. 410.

name of the Azrakites, broke out with all its fury against the Omayyad Caliphs, they refused to take up arms in support of the Government. Abdul Malik sent the energetic and unrelenting Hajjaj as Governor of Iraq, who restored order with an iron hand and enforced the general military duty of all male inhabitants of the two towns of Basrah and Kufah under severe penalty.* In no half-hearted spirit did he proceed in this matter, for any one pleading physical infirmity as an excuse for evading military service, had to pass through a formal enquiry. Thus he soon made these two towns what they were intended to be; namely, immense troop-depôts. Thus he compelled them to supply 20,000 men each in a war against the king of Sijistan, called Ratbil.† But not content with this, in order to connect Kufah and Basrah and, in a certain measure, to establish a chain of military posts, he founded a third permanent cantonment, which, lying as it did midway between Basrah, Kufah and Ahwaz, he called Wasit, *i.e.*, the middle one.‡ In all these reforms the energetic Governor, as may be imagined, relied upon a trusted body of Syrian troops whom he unhesitatingly quartered in private houses—a thing hitherto unheard of.§

* Aghani, II, p. 155.

† Ibn Athir, V, p. 365.

‡ Beladhuri, p. 289.

§ Ibn Athir, IV, p. 386.

Basrah and Kufah, however, remained to the end of the Omayyad dynasty the most important sources of the military supply of the empire, since from these two towns were sent the required number of troops to the most distant provinces. Thus the garrison of Khurasan, under the Caliph Sulaiman, consisted of 40,000 soldiers from Basrah, 7,000 from Kufah, and 7,000 clients.* And when, once, the Governor of Khurasan was sorely pressed by the Turks, the Caliph Hisham sent to his help 10,000 men from Kufah and 10,000 from Basrah.† We even possess fairly detailed information regarding the important tribes that settled in these two large garrison towns. In Kufah the South-Arabian tribes had a decided majority; the Murad tribes standing at the head. Its *Shaikh*, under the Caliph Yazid I, exercised authority over 4,000 mailed knights and 8,000 foot-soldiers, but with the help of his allies, the tribes of Kinda, Hamdan and others, he could muster 30,000 horse-men.‡ In Basrah resided in the five special quarters of the town the following tribes: Azd, Tamim, Bakr, Abdul Qais, Ahl-ul-Aliyyah (*i.e.* the Medinites).§ The military organization of the Omayyads extended to other

* Beladhuri, p. 423; Ibn Athir, V, p. 9.

† Ibn Athir, V, 125: Ibn Khaldun, General History III, p. 91.

‡ Mas'udi, V, p. 140.

§ Ibn Athir, V., 53.

provinces as well. We know, for instance, that in Mesopotamia, a province most exposed to the inroads of the Greeks, there were over 20,000 men capable of bearing arms under Yazid ibn Walid. This province then formed a special military district (*Jund*),* and the army which the last ruler of the Omayyad dynasty put in the field in the fatal battle which cost him his throne and his life numbered 120,000 strong.† These facts are more than enough to demonstrate that the military strength of the empire was very considerable; a fact which alone can explain the prodigious successes of the Arab arms. One fact of great importance, indeed, still remains to be considered, *viz.*, the pay of the soldiers, of which we shall speak more exhaustively later. Before passing on to this subject we desire to mention that the Arabs, during the first centuries of the Hejira, remained true to the system of permanent cantonments referred to above.

In every newly conquered country they chose a town important from a military point of view; and, where no such could be found, they pitched a camp and there settled a number of troops who took up their residence with their families, but, always held themselves in readi-

* Ibn Athir, V. p. 234, Beladhuri, p. 132.

† Ibn Athir, V, p. 319.

ness to do military duty.* In the earliest time the garrison received its pay from the provincial treasury. Later it often happened that soldiers were given land instead of pay. They did not, indeed, themselves cultivate it, but realised their pay out of its produce. Such fortified cantonments out of which towns grew up were in the province of Khuzistan: Askar Mukram, in the province of Farsistan; Shiraz, originally a fortified cantonment, then built by Hajjaj; in the province of Sind, Mansura; in Transoxiana, Merg.† In the province of Adherbaijan the troops took up their quarters at first at Maragha, later at Ardbil. The Syrian cantonments are already familiar to us. In Africa the garrison stations were Fustat, Barka, and Qairwan. From records hitherto unnoticed, we see that, when the Arabs conquered half the world and for long maintained their position as the ruling race, they did so, not by happy accident or aimless endeavours, but by their military system, which was incomparably superior to that of their opponents and contemporaries. This fact becomes still more convincingly apparent by a

* When the Arabs occupied Kazwin a garrison of 500 men remained there who were given lands to cultivate. They remained quite independent, like the garrison of Basrah, and had the right of choosing their commander. Barbier De Meynard, Dict. de la Perse, p. 442. Comp, also the observation of Amari, Storia Dei Musulmani della Sicilia, Vol. 1, p. 112.

† Istakhri, p. 262.

reference to the material position and the pay of the Arab soldier as contrasted with that of his adversary. It scarcely needs proof that no army then fought merely from a sense of duty or patriotism. Sense of duty is a quality which appears, as a determining factor, only in very highly civilized nations, and patriotism is an idea of such an elastic nature that among different people, at different epochs, nay, in individual sections of the very same people, it has often been conceived, interpreted and understood in diverse ways.* In decayed and decaying Governments patriotic feeling, and consciousness of duty very rapidly declines and disappears, and among the Byzantines both had long faded out of the mind of the people.

Among the Persians the empire was weakened by internal dissensions, and we may safely assume that these dissensions operated powerfully on their sense of duty and patriotism. Their army, according to the Arab account, gives us the impression of having been hurriedly collected together, and badly organised. The Arabs confronted their opponents as one firm and compact body, united under one commander, and ruled by iron discipline, which was maintained by most powerful motives, secular and religious. Compared

* [Patriotism is a sacred virtue, inseparable from freedom, the highest moral conception of humanity. Gregorovius. Tr.]

with the Byzantine soldier, the Arab soldier not merely received a princely remuneration, but also, according to the precepts of the Qur'an, was sure of his portion of the booty. Thus military service for the Arab was not merely the noblest, the most pleasing unto God, but also the most profitable of occupations.

We have already learnt to know that the annuity which Omar assigned to every Muslim ranged from 600, 400, 300 to 200 dirhams.* The last figures were meant for women and children. We may take it that the minimum figure allotted to the Arab warrior was somewhere between 500 to 600 dirhams. At that time the dinar was equal to 10-12 dirhams; the value in gold of a dinar was over 13 francs, so that we can fix a dirham, at least, as equivalent to one franc.† The soldiers of the earliest time received 50 to 60 francs, a month, in gold; a remuneration considerably higher than what the Byzantine Cæsar could pay to his soldiers. Moreover, it seems that troops, when in the field, received also provisions.

But apparently the pay of the troops was gradually increased. There was an overflow of

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* According to Ibn Khurdedbah the pay of the Greek soldiers was 8 to 12 dinars a year but the payment was very irregulur.

† Von Kremer says in Vol I, p. 233 :—In the Caliph Omar's time a dinar was worth 10 dirhams. In Mamun's time it was worth 15. A dinar was about 13*s*. 6*d*. in value.

gold in the treasury at Medina. Under the first Caliph of the family of Omayyad the standing army numbered 60,000 men, and it is expressly stated by the oldest authority that the yearly expenditure for it amounted to 60 millions. This, on an average, gives 1,000 dirhams per head. *

In Syria the South Arabian tribes who had taken a decisive part in the conquest of the country, constituted an important political body. These tribes, called after their biblical ancestor, Kahtán (*Yoktan*), the tribes of Khatán, or the Kahtánides, succeeded in winning over Muawiah, and obtained from him large privileges and concessions. They bound themselves to furnish a body of 2,000 horsemen as against a reward of 1,000 dirhams per head. They were further given the right of managing their tribal affairs without any interference on the part of the Government. In deliberations upon state affairs, their tribal chief was accorded a special place of honour, etc., etc.† Muawiah's successors were compelled to confirm these privileges, for on no other condition would the tribe acknowledge the newly chosen prince. When Merwan I ascended the throne he, likewise, had to confirm the old privileges to that powerful tribe, and,

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* Mas'udi, V, 195.

† Mas'udi, V, 200-201, Muawiah, at first, paid a salary to South Arabian tribes only, Aghani XVIII, 69, but later on to Qaisities also.

not until this was done, did they acknowledge him as Caliph. On this occasion, the tribal chief quite frankly declared, that he was in no way bound to do homage to the Caliph for ever. Since, said he, we render military service for gain, if you grant us the privileges, like your predecessors, we shall stand by you, otherwise we shall not worry ourselves about you.* The genuine Semitic character of these people shows itself clearly in money matters: love of gold is one of the most marked features of their national character. It is accordingly undoubted that the troops would scarcely allow any opportunity to escape for the enhancement of their pay. Matters soon went so far that in disputes about succession it was the golden purse that decided. Walid II, on his accession, raised the pay by 10 dirhams (*i.e.*, about 10 per cent.), and of the Syrians still more.† But as the demands upon the treasury increased it became more and more difficult to satisfy all. Even under Abdul Malik payments were delayed, or indefinitely put off, but without any serious results, as his opponent, the rival Caliph of Mekka, could not regularly pay his troops either. He had appointed his brother, Musab, Governor of Basrah. He left the troops unpaid for the longest time, but on his marriage did

* Mas'udi, V, 201.

† Ibn Wardi, Vol I, p. 185.

not hesitate to pay a dowry of one million dirhams. This occasioned the leader of the troops to send a complaint, in verse, to Mekka, wherein the following couplet occurs :—

A million he gives to his bride, fair and beautiful,
While the famishing troops are kept waiting for their pay.*

Although Abdul Malik eventually triumphed over his rival, he did so at an immense financial sacrifice. In order to bring the entire weight of his power to bear upon his rival, he engaged to pay to Byzantine Cæsar 52,000 dinars annually, with the humiliating condition that 1,000 dinars were to be remitted every Friday. In return for this tribute the Byzantines promised to make no incursions into Muslim territory.† The financial disorders, under Omar II, to be sure, increased the irregularity in the payment of the troops. But not merely did the pay swallow up immense sums of money: the equipments swallowed up still more; although the army, then, had neither breech-loaders nor costly artillery. The equipment of the Arab soldier consisted merely of the

* Aghani, XIV, 170; Hammer-Purgstall: Lit. Gesch. II, p. 67. [Musab, appointed Governor of Iraq, entered Basrah towards the end of the summer of the year, 67 (686 A.D.) Perier, Vie de Al-Hadjdjadj, p. 24. Tr.]

† Ibn Khaldun, General History, Vol. III, p. 70. Ibn Athir, IV, 251.

sword and lance, the bow and quiver.* The troops of Walid ibn Abdul Malik, at a parade in Mekka, were armed with lances and iron maces, but the siege-machines, as we shall see later, were altogether after Roman pattern. The coat of mail and the equipment which came more and more into fashion, absorbed considerable sums. Owing to the want of good military roads the transport of troops and their provisions and stores required a very large outlay. We need not, accordingly, be surprised to find that under Abdul Malik, Hajjaj, Governor of Iraq, sent out an expidition to Sijistan, the equipment of which,† apart from the pay of the soldiers, cost the Government two million dirhams. Towards the end of the Omayyad dynasty, circumstances becoming more and more unfavourable, the Caliph Yazid III found himself compelled to cut down all salaries by 10 dirhams (about 10 per cent.); when undoubtedly, the pay of the troops also was reduced.‡ In spite of this the army, even under Merwan II, is said to have numbered 120,000 strong.§ But, notwithstanding this, Merwan did not succeed, although he had immense military force at his command and

* Ibn Athir, V, 127. [See, Reinaud, De l'art Militaire, pp. 17-34. Tr.]

† Ibn Athir, IV, 365.

‡ Ibn Athir, IV, 182.

§ Ibid, III, p. 319; De Goeje, Frag. Hist. Arab I. p. 102.

had introduced drastic reforms into the hitherto prevailing tactics and mode of warfare.

The oldest formation of the Arabian troops was in lines; the troops being closely ranged in simple or double lines, both for purposes of attack and defence. The army, as in the earliest times, was divided into five corps; the centre, the columns on the two sides, the van-guard, and the rear-guard. The Commander-in-Chief had his seat in the centre, which only in exceptional circumstances he left. This arrangement of the army was called 'the order of the battle.' It followed this order, even when marching. There is no doubt that this method, agreeing completely with that of the Romans, was borrowed by the Arabs, from them, or more correctly from the Byzantines, for we must not forget that even the first Arab armies counted many soldiers who had served under the Byzantines and Persians, and who were doubtless familiar with their tactics and disposition of troops.

According to Ibn Khaldun the Arabs followed two methods of fighting: one was by attacking and retreating, and the other by charging at close-quarters. Those who adopted the first mode of warfare were wont to plant, in the rear, a barricade consisting of baggage, beasts of burden, etc., thus forming a sort of entrenchment, to enable them to have a place of retreat where

the cavalry might withdraw and collect again for a fresh encounter.

But even nations who attacked in closely-formed lines very frequently pursued the same military tactics as regards entrenchments in the rear. The Persians, in their battles with the Arabs, allowed elephants to advance into the battle, carrying turrets on their back, decorated with banners, and filled with soldiers and archers. During the battle, however, as a rule, they kept the war-elephants behind the fighting line, and only in extreme cases did they introduce them into the thick of the battle. In the battle of Qadasiyyah which cost the Persians the province of Iraq, the elephants did immense damage. They were brought out on the third day, but the Arabs, by wounding them, succeeded in frightening them to such an extent that they turned back and created the greatest conceivable havoc in the ranks of the Persians.

According to Ibn Khaldun, the Grecians and the Goths had a throne, as a rallying point for the army, on which the King or the Commander sat watching the course of battle. Round him stood the servants, the escort and the body-guard. On the four sides of the throne standards were set-up, and around it a select body of archers and lancers formed a ring. In the battle of Qadasiyyah the Persian Commander sat on such a throne, but when he saw the Arabs breaking

the line of his army, he fled towards the Euphrates, where he was killed.*

The Beduins, like most of the nomadic people, who fought by attacking and retreating, were in the habit of forming a rendezvous in the rear of the army, by locating there their camels and other beasts of burden with their women and children. The Arab armies of the earliest times were wont to attack in lines. Not that they were unfamiliar with other modes of warfare, more suited to their Beduin customs; but two reasons, according to Ibn Khaldun, determined their choice. In the first place it was the method used by their enemies, and this forced them to adopt the same course of action. In the second, they were led to do so by the desire of demonstrating their courage and valour in attacking the enemy; convinced as they were, in the event of death, on the battle-field, of sure admission into Paradise.

The first Arab ruler who abandoned the old method of formation of battle in lines and the division of the army into five corps, was Merwan II, the last of the Omayyads. He gave up the attack in lines, and in its place introduced small compact bodies of troops (*Kardus*, Cohorts).† Ibn Athir has handed down to us a good

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* *Cf.* Raumer, Gesch d. Hohenstaufen, V. 500.

† Ibn Khaldun, Proleg., II, 81; Ibn Athir, V. 267; Ibn Khaldun, General History, III, pp. 165, 195.

description of the old order of battle.* The Omayyad General Attab fought Shahbib, the dreaded leader of the Azrakites. His army consisted of 40,000 regular troops (*Muqatilah*) and 10,000 recruits and rabble. He divided his army into right and left wings, and himself took his place in the centre. The infantry he posted in a three-fold line: in the first line stood those that were armed with swords, in the second were those that carried the lances, and in the third those that were noted for archery. Those armed with lances used to kneel and thrust their lances forward.†

An instance of the new method of warfare we have in the battle which Tahir, the general of Mamun, fought against the rival Caliph Amin.

Amin arranged his army as follows: centre, right and left wings, ten squadrons of 100 men each, in the centre, one behind the other, so that each was a bow-shot of 60 to 80 steps distant from the other. He directed that they should advance to battle, one behind the other, in such a way that as soon as the first band of troops fell, the second should step into their place. Those in mailed armour were posted in the fore-front. Tahir, on the other hand, divided his army into cohorts (*Kardus*), and by that means secured victory. By attacking

* Vol. IV, p. 344.

† Ibn Athir, VI, p. 168.

the centre, he threw back the first row and thereby threw others into panic and disorder.

A Spanish Muslim of the sixth century of the Hijrah, the famous Tartushi, author of the *Siraj-ul-Mulúk*, describes, as an eye-witness, the method of Muslim warfare in Spain against the Spanish Christian troops, thus:—The foot-soldiers, armed with large shields and long lances, and provided with javelins, constituted the first line. They took up their position in closely ranged groups, and behind them, on the ground, they planted their lances, whilst they prepared themselves to receive the enemy with their javelins. Every soldier knelt on the left knee and held his shield, resting on the ground, before him. Behind this first line stood the archers, and behind them were drawn up the cavalry. When the attack began, none of those who were kneeling down could get up or abandon their position until the enemy came within range. Then they shot their arrows and the foot-soldiers used their spears. Precisely at that moment the cavalry charged the advancing foe.*

* Seraj-ul-Mulúk, Fol. 180. Von Kremer's MS. [It will be interesting to read what Prof. Oman, in his 'History of the Art of Warfare' says (p. 211): The Saracens were accustomed to array themselves in one very deep line, which Leo calls a solid oblong. Their cavalry were practically the sole force that gave trouble, the foot being a mere rabble of plunderers, which could never stand Their only useful infantry were composed of Ethiopian archers, but these, being wholly destitute of defensive armour, could never face the Byzantine footmen. In battle, the single heavy line of the Oriental

Finally we need only add that baggage, provisions and heavy engines and siege-machines were carried behind the army.* In this also the Arabs followed the example of the Byzan-

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necessarily in ordinary circumstances, gave way before the successive charges of the three Byzantine lines. The Generals of the East had already discovered the great precept which modern military science has claimed as its own, that "in a cavalry combat the side which holds back the last reserve must win."

On page 207 Prof. Oman says, "The Byzantine army served as a model for the forces of the Caliphs." "They have copied the Romans," says Leo, "in most of their military practices, both in arms and in strategy." Like the Imperial generals, they placed their confidence in their mailed lancers: they were no longer the naked hordes of the sixth century, but wore helms, shirts of chain-mail, and greaves. But the Saracen and his charger were alike at a disadvantage in the onset: horse for horse and man for man the Byzantines were heavier, and could ride the Orientals down when the final shock came.

"By the tenth century the Saracens had an art of war of their own. Some of their military works have survived, though none, it appears, dates back to the times contemporary with Leo. They had advanced very considerably in fortification; they had learned how to lay out and entrench their camps, and how to place pickets and vedettes. But they never raised a large standing army, or fully learned the merits of drill and organization. The royal body-guards were their only regular troops; the rest of the army consisted of the war bands of chiefs, miscellaneous bands of mercenary adventurers, or the general levies of tribes and districts.

"Two things rendered the Saracens of the tenth century dangerous foes,—their numbers and their extraordinary powers of locomotion." Tr.]

* De Goeje, Frag. Hist. Arab, II, 415, 486. [For further information on siege machines see note on p. 284 in Rashiduddin's Historie des Mongols. See William Tyre, in Guizot's collection des *Memoires relatifs a l'historie do France*, p. 134, Vol. XVI. At the Siege of Taif Muslims are first said to have used throwing machines. Weil, Moh. Der Prophet, p. 236. Tr.]

tines. Like the Byzantines they too had the ballista, catapults (*Manjaniq*, *Arradah*) which they used for throwing blocks of stone and rafters at the besieged town. The battering-ram served, as in antiquity, to make a breach in the wall: for undermining it they employed tortoises. The catapults were so strong that the blocks of stone which issued from them flew in a straight line against the walls and penetrated right into them. To obtain such tremendous results they had considerably to enlarge the lifting beams, so that the machines assumed quite an extraordinary size. These were the improved war-machines which, in the XII^th^ century, shattered the rampart of Ravello, at Amalfi, and inspired terror in the Greeks at Salonica, at the siege of Salerno, in 861 and of Syracuse in 877. They were improved by the African or Sicilian Arabs under the Aghlabides. In addition to the Arab authorities we possess a highly illuminating account of the Arab mode of warfare by the Byzantine Emperor, Leo the Wise, in his book on the military system called *Tactica*. He, personally, never fought the Saracens, but he relies upon the instructions and experiences of his father, Basilius, who had fought them, and not unsuccessfully. Moreover, in writing his book the Emperor has very largely drawn upon the reports of the Governors and frontier-commanders. Leo

reigned from 886 (when his father died), till his death in 912. He was a contemporary of the Caliphs Mutamid, Mutadid, Muktafi and Muqtadir, when Arab rule was declining; but the old principles and institutions, nevertheless, continued. Under Muwaffaq—the mad brother of the Caliph Mutamid—the successful wars against the Kharjites had conferred honour and distinction on the Arab arms. Leo discusses not merely the maxims of the Greek and Roman art of war, but also describes the warfare of the neighbouring nations often at strife with the Byzantine Empire. Among these the Arabs occupy the first place.

In outfit and armour, the Arab soldiers were not distinguished from the Greeks. They used almost the same weapons; bow and arrow, lance and javelin, sword and battle-axe. The helmet protected the head, the coat of mail the body, and the arms and legs were incased in iron. The Saracens used girdles, reins, and swords adorned with silver. Saddles were of the same kind as those of the Byzantines and precisely like those now in fashion in the East (Tactica, 18, 116).*

* The equipment of the Byzantine soldiers was as follows: bows, arrows, quivers, large shields, small bucklers, for attacking the infantry, small, round and polished shields with knobs in the middle, lances 8 feet long, javelins, axes and maces, having a sharp iron knob on the one and crescent on the other, used up to the present day in Turkey and even in Hungary, broad double-edged swords, carried at the hip,

The transport of baggage and war-material or provisions was effected, not as among the Greeks, by means of wagons or pack-horses, beasts of burden and mules, but on camels. The Arabs, did not use trumpets or bugles, like the Greeks, but small drums, whose dull and strange sound, as well as the unfamiliar sight of the camels, according to Leo's account, set the Byzantine cavalry in great terror. (Cap. 18, 113). A large number of camels, occupying the centre, during the march, accompanied the Arab army. They were wont to decorate their pack-saddles with small banners, as is customary to this day with caravans; and the Emperor Leo observes that this heightened the impressiveness of the scene.

They recruited the infantry from the African archers, who carried no heavy weapons and

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jackets covered with iron or made of buffalo-leather, overlaid on the breast with iron, arms and legs cased in iron, iron-helmets, slings for the use of Greek fire. The mounted archers had a shirt of mail which came up to the knee, the long, straight and broad sword, carried with sword-belt; the horses were protected on the breast and forehead by iron-plates, and the saddle was of the same kind as in use in the East now. The Emperor Constantine Porphyrogenitus describes the Arab warriors in his work "De administrando Imperio, Cap 20. "They are powerful and warlike, so that if only a thousand of them occupy a camp it is impossible to dislodge them. They do not ride horses but camels They do not use iron-plates but jackets, having folds either of leather or metal-plates. Their armour consists of long lances, large shields, which protect almost the entire body, and bows of elastic wood which are so large that persons of smaller stature cannot use them."

formed the vanguard of the cavalry (115). The cavalry at times took the foot-soldiers on horseback, with the result that each had a foot-soldier seated behind him. This however, was only done on short expeditions; for more extended ones the foot-soldiers also were provided with horses. The Saracens avoided fighting at night.

As soon as they found themselves in hostile countries they used to pass the night in a fortified place, or carefully to throw up an entrenchment behind the camp, in order to avoid surprises from the enemy. The battle-order was invariably a long square, and was on that account difficult to attack, and afforded the greatest advantages for defence. This order was strictly maintained on the march and on the battle-field and in hand-to-hand fight. In this, observes Leo, they imitated the Romans; for the Saracens, in this as in other things received their training from them (120). The Saracens always held their position firmly. They would neither let themselves be pressed to a hasty attack, nor abandon the battle once begun. Usually they preferred to wait for an attack, but as soon as the first onslaught was delivered, they pressed forward might and main. They followed this method of warfare both by land and sea. First they shot at the enemy with spears and arrows, then they put their shields together and

advanced to attack in serried ranks, (121, 122, 123). In warfare the Saracens distinguished themselves by their circumspection and admirable arrangements. The rich joined the fight and faced death for their country; the poor for booty's sake. Their countrymen supplied them with arms, and men and women eagerly contributed their share towards the equipment of the army (129). These are mainly the observations which Leo the Wise offers on the Arabian mode of warfare. The Emperor evidently failed to notice that the Saracens, whom he calls barbarians and unbelievers, were far ahead of the degenerate Byzantines in culture; in fact at the time of Leo, the Saracens represented progress and civilisation, while the degenerate Byzantines carried within them the germs of decay and dissolution. Many things prove that the Byzantines deserved those appellations far more than the Arabs. Thus, we learn from Leo that they shot at the Saracens, specially at the cavalry with poisoned arrows (126). Pillaging and burning villages was a Byzantine military rule (Cap. 9); while the Arab laws of war sanctioned it only under certain conditions.* To sell the prisoners as

* [Ibn Sabirul Manjaniqi, author of Umdatul Masalik Fi Siasatul Mamalik. This fine work, says Ibn Khallikan, which remained unfinished, treats of everything relating to war, order of battle, taking of fortresses, building of castles, horsemanship, blockading strongholds,

slaves was usual both with the Arabs and the Byzantines,† but as regards the division of the booty, the Byzantines possessed no rules. The religious laws of Islam prescribed rigid rules which were strictly observed so long as the old *régime* lasted. The moral superiority of the Arabs over the Greeks clearly comes to light from the passage quoted above respecting the voluntary military service of the Arabs. Nay, we do at times notice how deeply and bitterly the Emperor felt the contrast between the Saracen and Byzantine military system.‡

Leo's observation, on the transport-camels in the Arab army, calls for special notice. While the Byzantines used horses, mules and donkeys, or waggons drawn by oxen, the Arabs transported men and baggage with far

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etc., etc. Ibn Khall., Vol. IV, p. 369. *Women were always protected in war. See Goldziher, Vol. II, p. 136* ; Tabari, I, p. 1850 ; Goldziher, p. 84, Note 2 ; De Goeje, p. 74, on the weapons used by Muslims. See Tarikh-ul-Khamis, Vol. II, p. 188 ; as to the dress worn, see Tabaqat Ibn Sad, Vol. III, p. 92. Mohammed commanded his troops to spare monks, women, children and blind people, and forbade the destroying of houses and cutting down of trees or other wanton waste. Weil, p. 206, Note 322. Tr].

† [In the eighth century, says Finlay, the slave trade was very active, and the Venetians carried on with the Mohammedans a flourishing commerce in Christian slaves. Vol. II, Note (1), p. 55. Regular exchange of prisoners with the Muslims commenced as early as the reign of Constantine V, A. D. 769. In the year 797 a new clause was inserted in a treaty for the exchange of prisoners, binding the contracting parties to release all superannuary captives, on the payment of a fixed sum for each individual. Finlay, II, p. 89. Tr.]

‡ [*Cf.* Ameer Ali, History of the Saracens, pp. 440 and 441. Tr.]

greater safety and expedition by means of camels, even through arid deserts—wholly unsuited to the Greek army—an advantage that cannot be too highly estimated. I do not at all exaggerate in holding that the Arabs secured most of their victories by the help of their camels. These patient animals conquered Syria and Egypt for them. Before the Muslim conquest the camel does not seem to have been used in Asia Minor. It won indeed the victories of Islam. Since the Persian inroads into the Byzantine empire, it was seen again, on European soil, with the victorious marches of the Turks. In Spain, also, the Arabs introduced the camel, but it disappeared after the Moorish rule had ended.*

The Arab army must have created a great and powerful impression as they passed in innumerable columns through the hostile country. Troops of light cavalry in brilliant shirts of mail and shining steel helmets with long lances—the heads of which were adorned with black ostrich-feathers—formed the vanguard. The archers—of tawny colour, strong and half-naked—accompanied them running and almost kept pace with their horses. The two wings were secured against sudden attack by flying

* In the battle of Granada the Arabs had 300 camels in their army. La Fuente, Hist. de Granada, Tom II, p. 275.

corps. In the centre marched the infantry, armed with javelin, sword and shield. In their midst thousands of camels carrying provisions, tents and arms moved onward, while ambulances and sedan-chairs for the sick and wounded, and war-machines packed upon camels, mules and pack-horses, followed in the rear. If the Commander of the Faithful himself or one of the princes happened to be with the army the splendour of the scene was heightened by the divers gold-embroidered costumes of the royal bodyguard. There could then be seen Persian guards with their high, black caps of lamb's leather, the Turkish palace-guards with snow-white turbans. On the banners and standards shone, embroidered in gold, the name of the ruler, who in the midst of his royal household, surrounded by the highest commanders, rode on his palfrey streaming with pearls and gold. Immediately behind the Prince were eunuchs—easily distinguished on account of their distorted features—and a line of thickly covered *Palanquins* in which were to be found select ladies of the *Harem*. There was heard from time to time the dull, piercing sound of the small drum, which drowned the noise and bustle of the march. When, at last, they reached the appointed place of encampment, where the vanguard had already set up entrenchments, and had dug ditches, there arose, all of a sudden, at a wave

of the magician's wand, as it were, a large town of tents with streets, markets and squares. The camp fire was set aglow and the kettles began to boil, and after a simple dinner people began to form friendly circles at which stories were related and ancient poetry declaimed to the accompaniment of flute or violin. Only when the stars began to fade from the firmament did peace and the stillness of night steal over the camps and their variegated denizens. This offers us a glimpse of the Arab army, and a fairly accurate portrait of the military conditions of those times. Now to resume the thread of our narrative, and to discuss the question of the pay of the soldiers with the light of information that has come down to us. We have already seen that, under the Omayyads, the pay of a common soldier, on an average, was 1,000 dirhams a year. With the rise of the Abbasids the pay was cut down The pay of the common soldier under Saffah, the first Abbasid, was 80 dirhams a month only ; *i.e.*, 960 dirhams a year, the cavalry receiving double that amount.*

In the beginning the pay was smaller still, but on the news of the victory against the last Omayyad, Saffah distributed a present of 500 dirhams to each soldier, and raised the pay of the

* Ibn Athir, Vol. V, p. 322.

foot-soldier to 80 dirhams.* Abdullah Ibn Aghlab, who in the year 184 A.H. (800 A.D.) was invested with the Governorship of Africa after having been Prefect of the province of Zâb, paid in the year 196 A.H. (811-12 A.D.) 4 dirhams daily to every horse-man; *i.e.*, 120 dirhams a month or 1,440 dirhams a year. To the infantry he paid half the amount.† This, apparently, was looked upon as rather a high pay. It is said that even Berbers joined his banner. Of the most glorious period of the Caliphate—the Caliphate of Mamun—we learn that in the year 201 A.H. (816-17 A.D.) the army, occupying Iraq, counted 125,000 strong, and that the pay of the foot-soldier was 20 and of the cavalry 40 Dirhams a month.‡ Thus even, the yearly pay of the cavalry, was no more then 480 dirhams. Mamun paid to the troops of Damascus, cavalry 100 dirhams a month, infantry only 40 dirhams.§ In comparison with the pay, during the early year of the Omayyads, this shows a diminution of more than half. It is not difficult, however, to explain the reason. In the beginning of the Caliphate the Arab army consisted exclusively of full-blooded

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* This prince is said to have raised the annuity to 100 dirhams. De Goeje, I, 200.

† Ibn Athir, VI, p. 187.

‡ Ibn Athir, VI, p. 228.

§ De Goeje, pp. 423, 433, 464.

Arabs, grouped according to tribes, who took part in the wars for a substantial sum and an alluring prospect of rich booty.

The strength of the Government rested solely upon these tribes. The Arab's passion for gold had no limits. His demands were unbounded, and they had to be satisfied ; but he fought well. With the immense extension of the empire, however, under the first Caliphs, the Arab element was so dispersed and distributed that it became a pressing necessity for the conquerors to strengthen themselves, as rapidly as possible. Polygamy—practised most extensively for multiplying the Arab breed—did not furnish quickly enough the required number of men. Conversions to Islam offered to the Arabs a rich supply of fresh strength, but, at the same time, it introduced, a foreign element into the State. The disintegrating influence of this made itself felt, however, sometime after. In various countries which had yielded to the victorious arms of the Muslims, large troops of natives joined their rank partly from genuine conviction of the truth of Islam, and partly from motives of self-interest. The thoroughly democratic complexion of the earliest Muslim Government largely helped these conversions. The rule then obtaining was that the convert succeeded to the rights and privileges of the Muslim. True, according to Omar's

ordinance, he lost his landed property, and was only allowed to retain his moveables ; but immediately on conversion his name was entered on the pay register, and he received an annuity. He became thenceforward a member of the ruling race, enjoying privileges which were neither mean nor contemptible. Moreover, on conversion, he was generally received into the confederacy of some one of the great Arabian tribes, or became the client, of a powerful general or a statesman or even of the reigning family. The convert became a client and passed, according to the rules determining the relations of a client, into direct relationship with his patron.*

Thus in conquered countries—in Syria, Egypt, Africa, as also in Iraq, Persia and Transoxiana—a large number of natives became clients of Arab families. Certain it is that the majority of these converts chose military service, a service by far the most profitable of the services then available, and entered the army. It is stated that Tariq—the conqueror of Spain, whose name Gibralter still bears—was himself a client. The Berbers—converts to Islam—formed the majority of Tariq's army. Their conversion, however, was so superficial that their own religious teachers had to be appointed to instruct the

* Gesch, der herrsch, Ideen d. Islam, p. 372. *Cf.* Beladhuri, p. 373.

new converts in the Qur'an and its religious precepts and to train them as Muslims.*

With this army—consisting merely of a sprinkling of genuine Arabs—was Spain shortly conquered. So also in other countries, a complete assimilation took place between the ruling and the subject races. We come across a statement in the history of the first expedition to Khurasan, according to which the Muslim army that crossed the Oxus and besieged Saghanijan numbered 5,000, of which one-fifth were Persians who had accepted Islam and had made common cause with the Arabs.† The Caliphs had no longer, as before, to depend upon the services only of the great Arab tribes, but found their recruits among nations converted to Islam. The armies became considerable, and counted hundreds of thousands under the first Abbasids, as shown by the figures above. This large growth of the army, forced them in fact to cut down the pay of the soldiers. Moreover, it should not be forgotten that the value of gold had gone up by a third. The dinar, which under Omar was worth 10 dirhams, passed for 15 under Mamun. The Abbasids had conquered the Omayyads, not with the help of the Arab troops, but with an army consisting mostly of the Khurasanides, led by Abu Muslim.

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* Ibn Athir, IV, p. 248.

† Beladhuri, p. 407.

We can say therefore with justice (the fact is even clearly emphasised by native writers) that with the Abbasid rule the Arab element lost its political predominance, and the Persians henceforward stepped into the fore-front. Under Mansur, who seems to have interested himself very much in military affairs, and who used to hold reviews, seated, on such occasions, on his throne, dressed in helmet and coat of mail, the troops were arrayed before him in three divisions:* the North Arabian troops (Mudar), the South Arabian tribes (Yamanides), and the Khurasanides. The Khurasanides were the real body-guard of the ruling family, who always sought their assistance in suppressing any mutiny amongst the troops. This division of the army into national corps was continued by later Caliphs, to ensure against a general mutiny; but it brought into existence other dangers which they vainly sought to avert. To the three divisions of the South Arabian, the North Arabian, and the Khurasanides, a fourth was added under Mutasim which very soon became the most dangerous; those of Ferghana, or the Turks. They received from the town and district of Ferghana to which the greater number belonged, the name of the Ferghanides, but later on were

* Ibn Athir, V, pp. 462 and 463. [*Cf.* Goldziher, M. S. Vol. I, p. 88. Tr.]

wrongly called 'Turks' (Atraq). From the extreme east, as also from the provinces situated in the extreme west—Africa and Maghrib (Mauritania)—men were sent as tribute to the court of Baghdad. The Negro slaves, henceforward, were highly prized at the Court of Baghdad. They liked them for their loyalty and devotion, and used them as blind instruments for the execution of royal commands. From the interior of Africa, the real Sudan, great numbers of exported slaves passed into the possession of the Arabs and settled in the seaboard towns of the Mediterranean. A large supply of slaves was even contributed by the different Berber tribes, who every now and then revolted, and refused to acknowledge the authority of the Governor of the Caliphs. The Berbers were noted for the beauty of their person and figure; the woman therefore were imported into the *Harem*, and the boys enrolled in the royal bodyguard. Thus grew up a fifth, a *non-Arabian* corps, known by the name of the African, or the *Maghribans*. This contingent, always noted for its turbulence and ferocity, was called into being by Mutasim, and was formed, at first, only of the Egyptian-Beduins, but later on was reinforced by Negroes and Berbers. The foreign Turkish soldiers mentioned above—on whom the Caliphs mainly relied—aroused, partly by the favours bestowed on them and partly by

their arrogance and violent conduct, not merely the resentment of the people of Baghdad, but also that of the national Arab Troops.* Mutasim had an avowed aversion to the Arabs, and showed an undisguised partiality for the foreigners. He had the Arabs struck off the army register of Egypt, and stopped their annuity.† Riding once through the Bazar of Damascus on a festival day, surrounded by his Turkish body-guard, the reins of his horse were seized by an old man, with the cry: "O Lord! O Lord!" The Turkish guards tried violently to drive him away, but the Caliph forbade them and asked him what he wanted. The old man replied: "May God never recompense thee for bringing into the town such people, and for quartering in our midst these Turkish guards. They have made our children orphans, our wives widows, and have slain our men." From that moment the good old city forfeited the favours of its royal master. He never again set foot in it but settled down in Katul and built a new palace at Samarra (221 A. H.; 836 A.D.)‡, to which he retired with his troops.

* Ibn Athir, VI, 319.

† Ibn Taghrabardy, Vol. I, p. 642.

‡ Ibn Athir, VI. 319; De Goeje, Frag. Hist. Arab, p. 578 [Yaqubi writing at the close of the 3rd (9th) century has left us a long and detailed account of Samarra and its palaces, for the seven Caliphs who lived here, mostly as the prisoners of their Turk body-guard, occupied their enforced leisure in building and laying out pleasure grounds. The city proper stood on the eastern bank of the Tigris and

These Turkish soldiers soon became, so to speak, a kind of Prætorian Guards, and their commanders deposed and set up Caliphs at will. The soldiery, growing fiercer and fiercer, completely estranged the people from their ruler. When Mutasim died and Vathiq was chosen Caliph, the poet Dibil wrote the following lines :—

God is blamed ! Neither courage nor fame
Nor perseverence will avail
When people lie in slumber.*
One Cailph dies unwept and unmourned,
Another takes his place, but people rejoice not !

We must now pass on to a consideration of the army under the first Abbasids. We find the following divisions of the army under the Caliph Mahdi : *Jund*, *i.e.*, paid soldiers ; foreign element preponderating therein ; *Harabiyyah*, foot soldiers armed with lances, and *Mutatawiah*, *i.e.*, volunteers.† The latter took part, out of

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extended with its palaces for a distance of seven leagues along the river. The land where the Caliph Mutasim built his first palace when he came to settle at Samarra in 211 (836) belonged to a Christian monastery which was bought for 4,000 dinars (£2,000), and it was known as At-Tirhan. His Turk body-guard were granted fiefs at Karkh, and further up stream to Dur, some also lay south of Samarra towards Matirah ; and the Caliph proceeded to build the first Friday Mosque near the east bank of the Tigris, and lay the foundation of his palace : Guy Le Strange, *The Lands of the Eastern Caliphate*, p. 53-54. Tr.]

* Aghani, XVIII, 41.

† Ibn Khaldun, III, 209, 238, 245, 265. *Cf.* Ibn Taghrabardy, Vol. I, p. 307. A quarter of the town of Baghdad is even called Bab Harab, and possibly *Harabiyyah* is derived from it.

religious zeal, in wars against the foreigners, notably in the summer expeditions against the Byzantines, which, gradually assumed the character of a religio-military exercise performed year by year. In contrast to the unpaid volunteers, the two first classes of the regular Non-Arabian troops and the Arab lancers were called *Murtaziqah*, *i.e.*, paid soldiers. It is reported that Harun undertook a summer campaign against the Byzantines with 135,000 paid troops in addition to the volunteers. Such a summer campaign was nothing more than a *Razzia*. They attacked and laid waste the country of the enemy, and returned as quickly as possible with booty and captives. Under the common heading of the mercenary troops were included the various corps of armed troops, cavalry and infantry alike.

To each corps of archers was attached a body of Naphtha-firemen who shot at the stronghold of the enemy with naphtha or Greek fire.* From the account handed down it is clear that these Naphtha-firemen wore fire-proof suits and could penetrate into the burning ruins of the enemy's stronghold.†

Regarding the formation of these troops we are only told that, apparently in imitation of the Roman fashion, over every ten men there

* Ibn Khaldun, III, 260 [*Cf.* Ameer Ali, p. 431. Tr.]

† Aghani, XVII, 45.

was an *Arif* (Decurion); over every 50 a *Caliph*; and over every hundred a Lieutenant (Q'aid).*

According to another report, over every ten men was an *Arif*, over every 100 a *Naqib*, over every ten *Naqibs* of 1,000 men a *Qaid*, and over every ten *Qa'ids* of 10,000 men an *Amir*.† We have already seen that a company of 100 men formed a squadron, and several such squadrons probably constituted a cohort (*Kardus*). We early notice a uniform for the troops. Mutasim clothed his body-guard in damask, with gold girdles. Mutawakkil ordered all the mercenary troops to change their old uniform, and to wear henceforth sharp brown cloaks, and to carry the sword, not according to the old Arabian custom, with a shoulder belt, but in imitation of the Persian fashion, buckled round the waist.‡ Later on, other divisions of troops are mentioned, of whom we scarcely know more than the mere names. Under Muhtadi, and previously under Musta'in, those who called forth a serious insurrection by rising against the Turkish soldiers and their immense influence, were the Arab soldiers known as Shaqariyyah.§ When the Turkish party wanted to compel the Caliph Muhtadi to abdicate, the people of

* Ibn Khaldun, III, 299.

† Mas'udi, VI, 452.

‡ Ibn Khaldun, III, 275.

§ Ibn Khaldun, III, 283, 295.

Baghdad and the Arab troops stood out for him. They desired that the Caliph should remove the mercenaries from about him, that the old organisation of the army, as it stood under Musta'in, should once more be introduced and enforced, that the pay of the soldiers should be paid every second month, and that the fiefs and landed property improperly transferred to the Turkish officers should be forfeited to the treasury. Finally they required the Caliph to make over the supreme command of the army to one of his nearest relatives, and to dismiss the Turkish clients, soldiers and mercenaries.*

Later still, we come across a special palace-guard called 'boys of the chamber' (*Al-Ghilman-ul Hujariyyah*); while the great mass of the Arab infantry henceforward received the name of line-troops.† Next in order of time appear on the scene a division of the army called the *Sajiyyah*, probably after the name of their leader Abu Saj, who sustained a considerable political rôle at that time.‡ We thus have the various phases of the Arab army, until we reach the period when the Turkish guards became all in all. Their commander then ruled the empire. The Arab element was so completely displaced from the army that it ceased, henceforward, to

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* Ibn Khaldun, Vol. III, p. 299.

† Ibid, p. 379.

‡ Ibid, p. 373.

hold an independent position. Under the influence of the Turks a complete transformation was effected which, politically and financially, had the most far-reaching consequences for the empire. Before we attempt to discuss this last stage of Islamic civilization, we wish briefly to refer to a matter connected with the Arab military system which has not hitherto claimed our attention. Directly after the conquest of Syria the Arabs began to fortify the northern frontier lying toward Asia Minor against the inroads of the Byzantines, whom they henceforward looked upon as their most dangerous opponents. At first they sought to separate the two empires—constantly at war with each other—by converting the frontier towns into one vast wilderness. The Greeks abandoned the land lying north of Antioch and Aleppo, and destroyed the settlement therein. The Arabs on their part adopted the very same policy.

But, feeling gradually more secure, the Arabs not only built up and fortified places abandoned by the Byzantines, but also established temporary places of abode, and gradually extended their conquest to the very block-houses of the Byzantines. The places of strategical importance were Tarsus, Adana, Massysa, Mar'ash Malatiyyah, which were situated either at the junction of military roads, or at the mountain passes from which a large body of troops might issue. The

Omayyads had early occupied themselves with frontier fortification. At Kafarbayya, the outskirt of Massysa, Mopsuesta of old, a Muslim block-house was built and troops quartered.

Omar II, whose religious tendencies we have already come to know, did not fail to make arrangements for the salvation of the troops, quartered there, by providing a Mosque.* His predecessor Abdul Malik had already established a fortified castle.† Harun had the town, then in ruins, surrounded with ramparts, and Mutasim completed the fortification. In 384 (994 A.D.) the Greeks, for the first time, lost Mopsuesta. Nicephorus, however, reconquered it. Later on it passed into the possession of the Armenian kings ; but, after the overthrow of the Armenian kingdom, it fell again into the hands of the Muslims.

Mar'ash, the old Germanica, was conquered by the first Omayyads who garrisoned it. Then it was re-taken by the Byzantines, from whom it was once more wrested by Walid I. Then the Arabs fortified and garrisoned it, annually relieving the garrison from the army-corps of Kinnasryn (the old Chalcis). The Byzantines again occupied it under Merwan II, but were driven away afresh by Mansur. Finally the town fell into the possession

* [Guy Le Strange, p. 130. Tr.]

† Baladhuri, p. 165.

of the Hamadanites of Aleppo, from whom it passed into the possession of the Armenian kings. The fate of Malatiyyah was no less varying and chequered. Conquered under Muawiah, it was soon lost. Omar II only held it for a brief period. The Byzantines destroyed it in the year 133 A. H. (750—751 A.D.). Six years later, Mansur rebuilt and fortified it, quartering there a garrison of 4,000 men. He set up dwelling houses for the troops, for every 10 to 15 men two rooms with stabling. Every soldier, in addition to his usual pay, received an allowance of 10 dinars and provisions worth 100 dinars. They also established an arsenal there, and strengthened the vicinity by additional forts. Later on, about the year 1068, Malatiyyah fell again into the hands of the Greeks under Romanus Diogenes, and only came into Muslim possession under the Sultans of Iconium.

Tarsus, the most ancient town by Cydnus, had been abandoned by the Byzantines, and lay in ruins. Harun manned it with a garrison, and converted it into a large camp.

To the garrison he granted an addition of 10 dirhams as reward. He fortified Adana, and quartered a garrison there; while he planted a military colony at Anazarba, lying eleven miles north-east of Mopsuesta. In the neighbourhood of Mar'ash he established the citadel called after him 'Haruniyyah.'

Iskanderune (Alexanderette) was rebuilt out of its ruins by the famous Zubaida, wife of Harun.

The castle of Hadath in Cilicia; then Zibatra, the Zapetron of the Byzantines; the old town of Laodicia ad Lycum in Phrygia, now Esky Hisar; finally Hisn, Mansur, west of the Euphrates, were partly restored and partly rebuilt by the Caliph Mansur.

Mutasim, who specially devoted his attention to these districts, led an army to Asia Minor, and had the old town of Tyana, the birth-place of Appolonius, peopled with military colonists. On account of its position at the foot of Taurus, in the neighbourhood of the Cilician passes, it possessed a special strategic importance. He assigned a monthly salary of 100 dirhams to every horse-man, and 40 to every foot-soldier. He also transferred to Anazarba a strong colony of the Indian people whom the Arabs called *Jats.** The history of these border-towns clearly indicates the changing phases of strength or weakness of the two contending empires—locked for centuries in deadly strife. In proportion to the strength of the one or the other the weaker yielded, and the stronger advanced its boundaries. There is, perhaps, no part of the earth—the banks of the Rhine and the plains of

* Ibn Athir, VI, 311; De Geoje, Frag. Hist. Arab, p. 473.

Lombardy not excluded—where every foot of land has been so repeatedly and so fiercely fought for as the lands lying between Syria and Asia Minor.

The Arabs, under the Omayyads, extended their rule as far as the old Cilicia and Cappadocia. But soon the strength of the empire was weakened by internal dissensions. The Byzantines re-conquered almost all the important border-towns, and even took a portion of the country belonging to the Arabs. With the Abbasids the empire acquired fresh strength. Mansur regained the border towns and planted fortifications all over. Under Harun an extremely important arrangement was made. He created a special province out of these border-towns, which had hitherto formed a part of the military district of Kinnasryn, embracing Antioch, Manbig (Hieropolis), Doluk, Ra'ban, Kuris (Cyrrhus) and Tizyn, and conferred on them quite a military organization. Permanent garrisons and numerous new border-fortifications were established at all the more important centres.*

The whole district, henceforward, was called by a very characteristic name—'*Awasim*,' which might best be rendered by the expression "military border-district." Besides the fixed pay, the garrison there received considerable

* Beladhuri, p. 132.

sums of money and provisions. They, on their part, had to keep their arms and beasts of burden in an efficient and serviceable condition. They were assigned, moreover, landed-properties which they cultivated for themselves and their families. The immediate successors of Harun followed the very same policy. They planted garrisons to restore and revive districts depopulated and destroyed by continuous warfare. To strengthen the Muslim population regular tribes from adjacent provinces were settled. The brief revival of the glory of the Caliphate under the Abbasids came to an end with the accession of the Caliph Vathiq.

The Byzantines once again drove back the Arabs. Having firmly established themselves in Aleppo the semi-independent dynasty of the Hamadanites succeeded in defending the border-districts. When the Caliphate fell into decay a Christian principality rose at Antioch with the help of the Crusaders, and the Kings of Armenia, residing at Siwas, extended their influence and established their rule in those districts. With the growing strength of the Turkoman dynasty (of the Sultans of Iconium), and the rising flood of the Moguls of the family of Halaqu, there passed away the last vestige of Christian rule from these lands. Traces of these international struggles can still be distinctly seen there. On the route from Aleppo to Alexanderette ruins of old

churches, feudal castles and forsaken settlements are to be found at every step. In connection with the military organization of these border-districts, established by the first Abbasids, is to be noted the usual summer expedition undertaken about this time with a remarkable regularity.

The Arabs, with a fairly large army, were wont to cross their boundaries every summer, burst into the Byzantine territory, and dash back laden with booty and captives. Often, a large army was set in motion; for instance the Caliph Mahdi sent out an army of 80,000 men consisting of mercenaries and volunteers.* Several of these expeditions were conducted by Harun in person. The first time, as Crown-Prince, he led 95,000 men, and put 2,000 captives to the sword.† On another summer expedition this prince had 35,000 soldiers, besides the volunteers, under him. He advanced as far as Tyana, and conquered Heraclea.‡ Tyana was an important point. It lay at the mouth of a narrow pass through which alone access into the hinterland was possible.§ We

* Weil, Gesch. d. Chalifen, II, 98, 100. Ibn Athir, VI, 41.

† Ibn Athir, VI, pp. 44 and 45.

‡ *Ibid*, p. 134; Weil, II, p. 160.

§ According to Istakhry the boundary towards Asia Minor can be accurately determined. It ran from Shimshat across Malatiyya to Adana and Tarsus. From here the boundary extended towards the sea where Fort Aulus (the old Eleusa) stood as the most extreme Arabian frontier station. Istakhry, Ed. De Goeje, p. 64.

can easily understand that the two rival kingdoms would closely watch and keep each other informed of every event that took place. We are told that the Caliphs constantly kept their secret reporters in the neighbouring land situated to the north. Persons belonging to both sexes were chosen for this purpose. They travelled about, variously disguised, but generally as merchants or physicians, and they furnished secret reports to the Court of Baghdad. Thus, under Harun, a certain Abdullah, called Sidi, served for twenty years as a spy in the Byzantine Empire. From such reports, doubtless, were composed the description and account of the Byzantine Empire and its resources for defence, handed down to us by Ibn Khurdedbah. In it the number of the fortified towns and forts in every province of the Byzantine empire are carefully noted, and the military strength described. Not without value, indeed, are the reports of the Arab informants regarding the military condition of the Byzantine Empire towards the end of the eighth century. They help us in drawing a comparison between the two military systems, and I shall here discuss them. The Byzantine army-roll shows us the figure at 120,000. Every 10,000 men were commanded by a Patrician. Under him were two "*Turmarchs*"; every one of these commanded

5,000 men.* Then came five "*Drungarii*" or "*Chiliarchs*," each of these commanding 1,000 men. (Leo, Chap. IV of the Text); five "*Tribunes*" (Comes) each at the head of 200 men; five "*Hekatontarchs*," each at the head of 100 men; ten "*Demarchs*," each at the head of ten men.†

Not only about the Byzantines but also about other border nations of the North did the Caliphs try to obtain exact information. A report of one of these agents is partially preserved; *viz.*, one whom the Caliph Wathiq had sent to the Northern frontier to enquire into the affairs of the Slavs and Tartars inhabiting the shores of the Volga and the Jaxartes. (Idrisi, p. 416. Trans. by Jaubert.) In other provinces the very same system of border-fortifications was adopted as that which prevailed in the Syrian

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* [See, Prof. Oman, p. 189. Tr.]

† An old writer, Yakubi, who wrote in the year 278 A. H. (891-2 A.D.) gives us instructive information on the system of Byzantine defence. But unfortunately this is the very portion of his writing which has come down to us in fragments. This much, however, is clear, as we also learn from the Byzantine sources, that along with the mercenary troops the army consisted of territorial militia. Every town had to equip and put in the field a certain number of men. Yakubi, Kitabul Buldan, p. 40. [Besides, the Kitabul Buldan, Yakubi is the author of an Islamic history which has been edited by Houtsma. The introduction of this work is lost. In the first part the author deals with almost all the nationalities then known. In the second he discusses Islamic history till the year 259 A.H. (872 A.D.) The year of his death is unknown. See Brockelmann, Vol. I, p. 226; Z. D. M. G., Vol. 40, pp. 189, 612; Vol. 41, p. 415; Vol. 42 p. 1. Tr.]

border districts. They built blockhouses and fortified watch-posts (*Ribat*) which were maintained by the Government or were provided with rich endowments by pious Muslims. When, owing to altered conditions, the military importance of these *Ribat* disappeared, they were converted into seminaries and religious quarters for the *Dervishes* who, living upon the endowments, whiled away their time in lazy and languid contemplations and mystic visions. What a large number of these *Ribat* existed, appears from the fact that in Trans-oxiana there were several thousands of them.* Before we pass on to the last phase of the Arab military system we must first discuss the Arab fleet and their naval warfare. At the earliest period the Arabs shrank from every great sea-voyage, and Omar is even said to have prohibited the sending out of expeditions by sea. But as early as under the Omayyads sea expeditions were undertaken.† It can scarcely be doubted, however, that the navy then was far more Greco-Syrian than Arabian in equipment. By the conquest of Syria not only did a long stretch of coast-land pass into the hands of the Caliphs,

* Ibn Khall, Vol. I, p. 159, note 3.

† According to Constantine Porphyrogenitus, Muawia took Rhodes and destroyed the famous Colossus, the metal of which he carried away. Comp. Theophanes, Ed. Bonn, p. 527. But the Arabs soon lost the island again.

but they found in the inhabitants of the Phœnician towns the best sailors of the world,—renowned even in antiquity for their daring sea-voyages. In the year 28 A. H. (648-49 A.D.) Cyprus is said to have been occupied by the Arabs. In A.H. 34 the Governor of Egypt set out on a long sea-expedition from Alexandria with a fleet consisting of 200 ships (Ibn Taghribardy, Vol. I, p. 90; Ibn Athir, III, p. 90). It weighed anchor on the Lysian coast before *Anker*—a place called '*Mast*' by the Arab chroniclers—where Constans attacked them with a fleet of about 600 ships. The Muslims accepted the challenge undaunted. But they were soon convinced that they would have to give way if they fought from ship to ship. The Arabs were anxious to come to close quarters for a hand to hand fight.

With that object in view they threw out grappling irons, and dragged the enemy's vessels close enough to enter and overwhelm the Byzantine crew with sword and spear. A bloody struggle followed, in which the Arabs came off victorious. Constans withdrew as soon as the Arabs commenced to shower their arrows, and took to flight and barely managed to escape.* Even the bold and fair Busaisa—the wife of the Commander—was present at the scene.

* According to Theophanes, Ed. Bonn, Vol. I, p. 528, the battle took place in 646 A.D.

Questioned, after the battle, as to whom she considered the bravest of the Arab warriors, the "man of the chains," she replied.

This was a young warrior who, in the hand to hand fight, when the admiral's flagship was captured by means of a chain and was about to be towed away, despising death, threw himself on to the chain and severed it under a heavy shower of missiles. The brave warrior was known as Al-Kama and loved Busaisa, for whose hand he had tried before in vain. As against an important and influential suitor, in command of the fleets, he had but a poor chance. Some years after the battle of the '*Mast*' the commander died, and the young man at last received Busaisa as his wife. About 668 or 69 A.D., a navy of 200 ships sailed from Alexandria and attacked Sicily, and successfully returned laden with rich booty.* Under Harun, Rhodes was conquered a second time. It is undoubted that the first Arab navy was manned by sailors from the Syrian and Egyptian coast towns. To a large extent both sailors and captains were either Christians or renegades, who served the Arabs for money and booty. They were their first instructors in the art of navigation.

The inhabitants of the Syrian and Egyptian coasts were gradually won over for Islam, and

* Amari, I, 99.

the Arabs, accustoming themselves slowly to sea life, soon became a real sea-power. The sailors and mariners of the Syrian coasts are, to this day, exclusively Muslims. In the dock-yards of the Syrian and Egyptian sea towns, they built triremes and galleys. From Leo we learn that the Arabian ships were built in large sizes, and, on account of their bulk and clumsiness, did not move about swiftly enough. (Tactica, XIX, 70). They were unquestionably imitations of the Byzantine triremes. They had at least twenty-five seats on each of the two decks. The number of the rowers—every seat holding two—amounted to a hundred. On each side of the vessel sat two rows of men of twenty-five each, one above the other. The rowers were at the same time equipped as soldiers. At the bow of the vessel stood a brass syphon for hurling the Greek fire,* and above this rose a *pseudo-platium*, or a kind of castle, formed of strong beams, where the soldiers took up their position, fought the enemy and shot at their ships. Even larger triremes were built which had a crew of 200 men, of whom fifty were engaged as rowers, while 150 fought the enemy from the upper deck. (Cap. XIX, 9.) Smaller ships, meant specially for expedition and

* This means of destruction was not known to the Arabs. It seems to have been first used by them in the beginning of the XIIth century. Amari, III, 367.

despatch were called galleys (XIX, 10). The Arab ships were similarly built, and were called '*Kumbaria*.'*

In the African and Spanish possessions of the Arabs, naval affairs passed through a specially rapid development. The Commander-in-Chief of the Spanish-Arab fleet generally had his seat in Baggana (now Pechino, a village in Almeria), and in Almeria were two harbours where the Arab fleet lay at anchor. It appears that the fleet consisted not merely of such ships as had been built at the instance of the Government for purposes of warfare, but every province or sea-board town had to contribute a fixed number of ships at the call of the Government.

This practice prevailed also among the Fatemides of Egypt.† Ibn Khaldun tells us that the fleet of the Spanish-Omayyad Caliphs were collected from all the harbours of the kingdom: each one of these having to furnish a fixed number of ships. Every one of these warships stood at the command of a Qa'id, Captain, who

* This word cannot, with certainty, be traced in Arabic. Probably it is mis-spelt. It may be from the Arabic 'Kubbar,' *i.e.*, *great*, to which the Greek plural termination has been added. The superiority of the Arabian navy over the Greek is easily explained. The Arab seamen, according to the Qur'an, were entitled to the fifth of the booty; while the Greek sailors had no such expectation. The former therefore were vitally interested in the success of their undertakings.

† Maqrizi, Khittat, Vol. I, pp. 283, 482.

only occupied himself with military affairs; such as equipment, training of the sailors, and manning of the vessels; while a second officer called 'Ra'is' was put exclusively in charge of the navigation, an arrangement quite usual in the Middle Ages, even in Christian fleets, nay, which obtains currency even in the English Marine, where in every warship a special officer is entrusted with the navigation. The ship was manned with sailors and oars-men and with land-soldiers sent out for purposes of fighting.

In the Eastern coast-lands of the Mediterranean the development of naval affairs was not so favourable as in the West. Even under the Omayyads, the Mercantile Navy began to attain importance, and somewhat later the Arab merchants traversed the Indian and Chinese Seas. In sea-warfare, however, the East remained far behind even the small African and Spanish dynasties. It is well-known that after Spain had become entirely a Christian country the Northern African States continued to maintain a considerable sea-power, and that the European Powers paid tribute to them up to the end of the last century to secure their merchant-ships against the Moorish pirates. That the Arabian fleet of the earliest period was a model in many ways to those of the Christian countries, is patent from the fact that many Arab nautical terms have been preserved in the languages of Southern

Europe, such as: cable, Arabic *hable*; arsenal, Italian, darsenal, Arabic *Dar us-sanah*; corvette, which comes from the Arabic *Ghurab*, *i.e.*, Raven.* We must now proceed to the consideration of the last great transformation of the military system of the Caliphate. Instead of the pay of the soldier being defrayed regularly by the State treasury the revenue of entire provinces was placed at the disposal of the Governor to meet the military expenditure.

In the chapter on finance we shall see that, in the reign of the Caliph Muqtadir, the deficit was higher than ever. The State-treasury was empty. Most of the provinces neglected to send in their revenues, or at all events remitted quite insignificant sums to Baghdad, in comparison with the earlier times. The authority of the Government, moreover, was so completely paralysed that the

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* This kind of ship was so called because of its dark colour, and possibly also on account of its peculiar shape. The word is found in later Greek in the form of Golafros, Golabros, and Golafos (*cf.* Ducange: Glossarium infimæ græcitatis und Muratori: Rerum Italicarum, etc., VI 112). The Arabic word '*Ghurab*,' as a name of a kind of ship, appears already in the dictionary of Schiaparelli under '*Galea*,' but has fallen into disuse in Arabic. To this class of words also belongs *Harrakah*, *i.e.*, fire ship by which the Arabic denoted those Greek ships which threw out Greek fire. Towards the close of the VIIIth and the beginning of the IXth century the Arabs also commenced to build such ships, and soon afterwards '*Harrakah*' obtained a more general meaning. It survives in '*Caracca*,' which occurs in the annals of Genoa and Venice. Amari, I, p. 302. The word 'Admiral' is also borrowed from the Arabic, not from '*Amir-ul-Bahr*' but from '*Amir*' alone as Amari points out: Vol. III, pp. 351, 353.

Caliph, to secure a regular revenue, was constrained to give away in fiefs whole provinces to Governors who had made themselves almost independent; on condition that they should pay a fixed sum as tribute to the court of Baghdad. He granted away districts to powerful magnates on condition that they should collect the entire revenue, defray the charges of the administration, pay the troops and remit a fixed sum to the court of Baghdad. These grants were called '*Iqtiat*.' In Persia this system prevails to this day; while in Turkey, since the beginning of this century, it has been largely replaced by the centralisation, at Constantinople, of the entire administration of taxes. A Turkish Commander, *Sabük*, took charge of the important province of Adherbaijan and obtained it in fief from the Caliph Muqtadir against an annual tribute of 22,000 dinars.* In Sijistan a rebel shook off the yoke of the former rulers, the Samanides, and sought for an investiture from the Caliph, against an annual tribute of 500,000 dirhams. The Caliph accepted the proposal, and confirmed him in his position. The Caliph Muqtadir further invested the Dailamite prince *Mardawig* with Isphahan, Mahal-ul-Kufah, and Khuzistan, for an annual tribute of 200,000 dinars,† and the Caliph Radhi confirmed him in the possession of

* Ibn Khall, III, p. 170.

† Ibn Khall, Vol. III, pp. 384, 390.

all the districts and provinces which he had conquered, for an annual tribute of one million dirhams.* It is superfluous to add that with this system the empire dissolved into a number of semi-independent States, every one of which maintained an independent army. Military affairs, therefore, ceased to be looked upon as the common concern of the entire Empire. Just a few provinces and the capital remained to the Caliph. To maintain, with the slender revenue at his command, the dignity and splendour of the court, the Caliph had to resort to violence and extortion, a subject which we shall discuss in the chapter on finance. He was also compelled to enlist the sympathy of the leaders of the foreign troops for himself and his cause, and to present to them crown-lands and districts which had fallen to the State by the frequent confiscations and forfeitures. When, at last, the rulers of Dailam, known to us as Buwayyides, got the Caliphs completely under their power, instead of granting salaries to the troops, they parcelled out lands to them as military fiefs. The fiefs were free from taxes. Their revenue fell to the officers and their soldiers. The result was that cultivation declined, and the most fertile provinces were soon impoverished and depopulated. The Arab

* Ibn Khall, III, p. 306.

nation, moreover, was more and more displaced from their landed possessions by foreigners. The leaders of the Turkish troops who then ruled the Caliphs as conquerors, succeeded to the lands taken away from the Arabs. The Caliphs invested them with these lands, and thus arose a military feudal nobility of non-Arabian nationality, out of which during the increasing weakness of the central authority, grew up a crowd of petty feudal princes and semi-independent dynasties which soon ruled their possessions with unlimited powers, and struck their own coins, to which they scarcely even added the name of the reigning Caliph.

Just before the Crusades, the East, like the West, was divided into a number of greater or smaller States and fiefs, at the head of which, as the common religious chief, like the Pope in Europe, stood the Caliph. Since the time of the Buwayyides, the army ceased to be Arabian, and passed more and more into the hands of the Turks or the Persians, who fundamentally transformed the system of military fiefs. Under the Seljuks, who entered upon the heritage of the 'Buwayyides' as protectors of the Caliphs, the development of the military system assumed the shape in which we find it in later times in Turkey, and to some extent even in the present day in Persia. Every member of the ruling family, every Amir, received a town or a district,

as a fief, in which he exercised unlimited powers and the privileges of a feudal lord. He had the manorial jurisdiction, and the peasants had to do husbandry services for him. To the Sultan the feudal lord had to pay a yearly tribute, and in time of war to supply a fixed number of troops, which had to be maintained and equipped, at his cost, in order to serve the highest feudal lord, the Sultan. Of these feudal lords, of whom, at the time of Malik Shah, there were forty alone in Iraq, only a few were Arabs, like the small family of Dubais in Hilla, which had to pay a yearly tribute of 40,000 dinars.*

Throughout Anterior Asia, and indeed wherever their victorious banner was unfurled, in Egypt, West Africa, as well as Persia, India, and finally, even across the Bosphorus—Thrace and Greece,—on European soil, this military-fief system was set up by the Turks and the Tartars. In Thrace and Greece it only fell into disuse with the reforms of the Sultan Mahmud and the introduction of the regular army.

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* Defremery; Journal Asiat., 1853. April—May, p. 429, Hammer-Purgstall, Gemäldesaal, V, p. 83. [See Reinaud, De L'art militaire chez les Arabes, pp. 44 et seq. Tr.]

CHAPTER VIII.

THE ORIGIN AND DEVELOPMENT OF MUSLIM LAW.

Just as, with surprising rapidity, the new empire managed to fashion its political constitution, so did it set up its system of laws. The Arabs were the only people of the early Middle Ages who, in the development and scientific treatment of legal principles, achieved results which approached in their magnificent splendour those of the Romans—the law-givers of the world. A considerable portion of those alleged divine revelations which Mohamed delivered in moments of poetic ecstasy, or in the varying moods of his eventful rhapsodical career, were without internal connection or cohesion. But, in the opinion of the Faithful, the highest and the most incontestable source of Law consisted of the ordinances contained in the holy book. Thus the sacred fountain of the laws of the Muslim State was the Quran. But when, out of the patriarchal conditions of early times, a mighty empire grew up, the necessity was keenly felt for judicial formulae and judicial rules adapted to the new conditions of life.

Persecuted in and expelled from his native town, Mohamed had chosen as his permanent residence Medina, the small north Arabian town which to him, as a poor fugitive, accorded a friendly reception. Here in his happier days he ruled not merely as a Prophet, or as his followers called him the Messenger of God, but he exercised all the duties and powers of an absolute temporal sovereign. As in biblical times, so also in this case, the office of a judge was combined with that of the ruler. The decisions he pronounced in that capacity served as undoubted precedents, and fill up those numerous gaps which are to be found in the Quran from a legislative point of view. Not only the decisions he gave as judge, but also his entire public and private life, served as a standard to the Faithful, as something to which they should industriously conform and live up to. Even the very silences of the law-giver (*Sukut*), his tacit approval in certain cases (*Takrir*), were carefully remembered and regarded as a rule of conduct for pious Muslims on similar occasions.*

* The following extract drawn from Moulvi Yusuf's masterly review of the Law of *Waqf* will explain and elucidate this subject. On p. 231, n. he says: A tradition may be *Hadith-i-quali*, that is an account of something which the Prophet said; or *Hadith-i-Faili*, a record of something which he did; or *Hadith-i-Taqriri*, a statement of some act performed by other persons in his presence which he did not forbid. Traditions may be classified under five general heads:—

First:—*Hadis-i-Mutawatir*, that is, "an undoubted tradition," the *Isnád*, or chain of narrators, which is perfect, and in which chain each

Thus the life of the Prophet, his discourses and utterances, his actions, his silent approval, and even his passive conduct constituted, next to the Quran, the second most important source of law for the young Muslim Arabian empire. With the written law offered in the Quran, as the direct written divine revelation, there accordingly existed a further supplementary source of law, orally handed down; *viz.*, the tradition of the decisions of the Prophet, his discourses

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narrator possessed all the necessary qualifications for his office. Some authorities say there are only a few of these traditions extant, but most allow that the following is one :—

"There are no good works except with intention," for example, a man may fast, but, unless he has the intention of fasting firmly in his mind, he gains no spiritual reward by so doing.

Second :—*Hadis-i-Ahad.* The authority of this class is theoretically somewhat less than that of the first, but practically it is the same.

This class is again subdivided into two :—

(1) *Hadis-i-Sahih*, or a genuine tradition.—It is not necessary to go into the subdivision of this subdivision. A tradition is *Sahih* if the narrators have been men of pious lives, abstemious in their habits, endowed with a good memory, free from blemish, and persons who lived at peace with their neighbours. The following also are *Sahih* though their importance as authorities varies. I arrange them in the order of their value. *Sahih* traditions are those which are found in the collections made by Bukkari and Muslim, or in the collection of either of the above, though not in both ; or if not mentioned by either of these famous collectors if it has been retained in accordance with their canons for the rejection or retention of traditions ; or lastly, if retained in accordance with the rules of any other approved collectors. For each of these classes there is a distinct name.

(2) *Hadis-i-Hasan.*—The narrators of this class are not of such good authority as those of the former with regard to one or two qualities ; but these tradition should be received as of equal authority as regards any practical use. It is merely as a matter of classification that they rank second.

and actions, his approval, or disapproval, or indifference in certain cases. The entire body of these traditions is called *Sunnah*: while every individual tradition is called *Hadith*. After the death of the Prophet his successors exercised judicial functions during the entire period we have described as the patriarchal, and in cases where the Quran and the *Sunnah* left them unassisted, they sought to decide in a manner in which they supposed the Prophet would have done in similar cases.† In most instances, indeed, they

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In addition to these names, there are a number of other technical terms which have regard to the personal character of the narrators, the *Isnád*, and other points. A few may be mentioned.

(1) *Hadis-i-Z'aif*, or a weak tradition.—The narrators of it have been persons whose characters were not above reproach, whose memories were bad, or who, worse still, were addicted to "*bidat*," innovation, a habit now, as then, a crime in the eyes of all true Muslims. All agree that a "weak tradition" has little force; but few theologians agree as to which are, and which are not, "weak traditions."

(2) *Hadis-i-Muállaq*, or a tradition in the *Isnád* of which there is some break.—If it begins with a *Tábi* (one in the generation after that of the companions), it is called "*Mursal*" the one link in the chain, the companion, being wanting. If the first link in the chain of narrators begins in a generation stil later, it has another name, and so on.

(3) Traditions which have various names, according as the narrator concealed the name of his Imam, or when different narrators disagree or when the narrator has mixed some of his own words with the tradition, or has been proved to be a liar, an evil-liver, or mistaken; but into an account of these it is not necessary to enter, for no tradition of this class would be considered as of itself sufficient ground on which to base any important doctrine.

It is the universally accepted rule, that no authentic tradition can be contrary to the Quran.—Tr.

† The traditions of the decisions of the first Caliphs are called '*Atar*.' They are reckoned as a source of law.

might have hit upon the right decision; for the first four Caliphs were the nearest kinsmen and most trusted followers of Mohamed, and by their life-long connection with him had acquired a most intimate knowledge of all his ideas and modes of thinking as well as of his views regarding the manifold conditions of life. Next to these trusted followers who assisted in the conduct of the Arab community, grown in a few years into a world empire, was a considerable number of the most influential and zealous supporters of Islam, who, as disciples of the Prophet, had the monopoly of furnishing precedents in difficult cases drawn from the history of the life of their master.

With the authority and sanction of their names many new structures were raised by the faithful community, on the edifice of the *Sunnah*, which soon grew into gigantic proportions, and vastly contributed to the history of the Prophet's life. Even his wives, enjoying the highest reputation after his death, were often questioned, as 'mothers of the Faithful,' about the details of the life of their immortal lord, and thus in rich measure contributed to the *Sunnah*. Also the less distinguished Companions, by whom were understood those who had only once come into contact with the Prophet—of such there were many thousands—related their experience of the

Prophet and endlessly multiplied the number of *Hadith*—then in circulation. We should not forget that directly after the death of the Prophet his personality was hedged round with sacred legends, and every Muslim who had lived with him for a longer or shorter period contributed his share to the superstitious veneration. The conquests of the first ten years had dispersed the followers of Islam to remote lands; some, favoured by the fortunes of war, had become enormously rich; others served in the army. Persia, Babylon, Syria, Egypt, and Africa, each had its contingent of the Companions of the Prophet, and as such—the more their lines were thinned they enjoyed the greater esteem and regard. Every one sought to collect a greater or smaller number of reminiscences of the Prophet, which he treasured as his most valuable asset, and handed them down to his younger brethren in faith, who listened to them with fond delight, and in their turn impressed them on others with pious zeal. When the last of those men died who could boast of having seen or heard Mohamed (about the year 100 A.H., 718 A.D.), there stepped into their places a still more numerous class of those who had mixed with one or more of the Companions of the Prophet and had learnt traditions from them. This class received the name of '*Tabi*' (Successor), and succeeded in swelling still

further the existing store of traditions. Thus, when the Quran failed to offer a basis for a judicial decision ; when the conduct of the first Caliphs and their Companions failed to provide a precedent; the *Sunnah*, by its tremendous luxuriance, rather than by scarcity of examples, created difficulties and embarrassment.

2. The Collection of Tradition.

The accounts of the sayings and actions of the Prophet were handed down partly orally and partly in writing. Only gradually were they systematised. In the earliest times traditions were chiefly transmitted orally and stored in memory. The opinion then prevailed that writing was only to be used in multiplying copies of the Quran, and in drawing up business letters or documents. Various sayings of the Companions of the Prophet were related, prohibiting the use of writing for the purpose of systematically recording traditions. Specially important texts, however, which, on account of their length, could not be correctly remembered, were early set down in writing. *The Khatib-Baghdadi* preserves a tradition where an eye-witness relates the following:—I saw Ali in the pulpit and he spoke : "I have no other book to lay before you except the Quran, and this roll of paper," which was fastened to his

scabbard with an iron ring, and contained laws regarding the poor-tax, the scale of composition of money payable in cases of murder or mutilation, and offences generally.* It is obvious from this passage that alongside of the Quran, and on account either of the length of the text or their contents, some important laws were not trusted to memory alone, but were set down in writing. These were rules affecting the poor-tax and criminal justice, which in those days of only too frequent murder and mutilations were of special importance, and were finally settled by Omar, probably on the basis of the old Arabian customary laws. The oldest documentary remains of Arabic literature, next to the Quran, are the scriptural passages of the *Sunnah*. The transmission of traditions, set in short anecdotal forms, was generally left to memory, though early they came to the help of memory by setting isolated traditions in writing. This took place, however, in the shape of loose sheets. In those times they never thought of collecting them into a book. Many learned men, specially scrupulous ones, reduced their collected traditions to writing, but as soon as they had committed them to memory they destroyed their collection. In this manner perished

* Sprenger on the origin and progress of writing down historical facts, p. 16, in the Journal of Asiatic Society of Bengal, 1856. *Cf.* Bukhari in the *Kitab-ul-Itisam bil kitab-ul-Sunnah*, 3846.

life-long collections of traditions, industriously gathered. Individuals particularly anxious for the display of pious pedantry, even went the length of making a will for the burial of their collected and recorded traditions after their death. This practice continued till the third century of the A. H. But less fanatical minds, in spite of all this, preserved and set down in writing many traditions. This undoubtedly was the case with a large number of traditions. We have already shown that this was done with certain legal rules. But these notes served only as private property. For a tradition to be looked upon as authentic and genuine, it had always to be orally transmitted and armed with an unbroken chain of authority from the last narrator to the person who vouched for having personally heard it from the Prophet. While the notes of the earliest times consisted of loose and tumbled sheets of paper, about the middle or rather the beginning of the second century after Mohamed (possibly earlier) these scattered materials began to be arranged, sifted and systematised. About 131 A. H. *Ibn-a-Munajjim* wrote his chronicle—now only partially extant. This can scarcely be regarded as the first systematically planned work in the Arabic language. It is undoubted that the composition of the oldest scientific work in Arabic took place much earlier than has been accepted

hitherto.* Medina, of all cities, was certainly the place whence flowed traditions, as though from the purest source, where survived the most genuine recollections, where even the usages and popular institutions must have conformed as nearly as possible to the ideas and customs obtaining at the time of the Prophet. It was the cradle of Islam, the adoptive home of Mohamed, the seat of his most zealous and devoted followers; nay it was here that the heap of traditions was, first and for all times, collected and codified into a great *Corpus Juris Divini et Humani* by a learned man of repute and distinction.

A native of Medina, Malik-ibn-Anas was the man who undertook and achieved this task. In this he struck out a path for great literary activities, and his collection is still the richest source of accurate information for the religious and social conditions of those times. Born in the second century of the Hijra, he devoted his entire life to study and to lectures in the mosque and to the decision of spiritual and temporal disputes.†

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* Zurquani, commentary to the *Muatta*, 1, p. 10; Sprenger, Das Leben und Die Lehre Des Moh III, LXXXVII. Omar II gave the impulse to the collection of traditions.

† According to Ibn Qutaibah his date of birth is 112 A. H. (p. 215); Ibn Abdul Bar 93. A. H. Zurkani's commentary on the |*Muatta*. He died according to Ibn S'ad, 179 A. H., according to others 197. A. H. (812-813). (Ibn Abdul Bar has composed a number of treatises on the *Muatta*, see Ibn Khall, Vol. IV, p. 318; Ibn Khall, Vol. II, p. 549. Tr.)

In his seventeenth year he began his public lectures, and they soon acquired such reputation that men flocked to them more than to a prince's court. He enjoyed the highest esteem and filled the most distinguished position in his native town, recalling for us the words of Cicero: *Est enim domus jurisconsulti totius oraculum civitatis.* He appears to have been the first to apply the test of a severe scrutiny and criticism to traditions. He rejected every tradition appearing doubtful to him. With such great religious feeling did he set to work, that to be in a state of perfect purity before delivering his lectures on tradition, he performed the prescribed ablutions, put on new clothes, perfumed himself, tied his turban erect, and occupied his seat full of dignity, while the hall was fumigated with aloe-wood. His teacher was Zuhri—the first collector of written traditions.* Twofold was his method of lecturing. He partly delivered orally traditions which were noted down by the disciples, and partly he made one of the pupils read out the text to which Malik and others listened, correcting or explaining difficult passages as he went along. It appears,

* According to Darqutni in Zurqani, Vol. I, p. 6. (It is not certain which of the three Zuhri, Abdul Malik bin Juraij, or Malik bin Anas—was the first to set down traditions in writing for the purpose of making a collection. Suyuti and Maqrizi consider Zuhri as the first; while others give priority either to the *Muatta* or to the compilation of Ibn Juraij or Ar-Rabi—the consensus of opinion, however, seems to be in favour of Abdul Malik bin Juraij. Tr.)

however, that he distributed copies of traditions revised by himself, and directed that they should be passed on to others.* Peculiar is the title given to his collection by Malik. He called it *Muatta*, the levelled one, *viz.*, where difficulties were solved. It contains about 1,700 traditions arranged according to the contents. To him in any event belongs the credit of having for the first time systematised the rules of civil and criminal justice prevailing in Medina, thereby laying the foundation of the system of Muslim Law, later on cultivated and developed with such assiduity and ingenuity. In his book he codified the Common Law of Medina, and thus opened out a path for the further development of juridical studies. About the time that Malik died, at the other end of the Muslim world was Bukhari born (194 A. H., 810 A. D). A huge collection was the result of his many years' work, for he devoted full sixteen years to it. This contains about 7,000 selected from 600,000 traditions. In his work he has only accepted those traditions which conformed to the then current canons of historical criticism. Bukhari's work has become a sacred book and is a valuable legacy of the learning and religious enthusiasm of the early generations.

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* This mode of teaching was called by the technical name of *Munawalah*, *cf.* Sprenger. Z. D. M. G. X., p. 13 (on Malik, see Goldziher, Moh. Studien, Vol. I, p. 130 ; Vol., II, p. 79, note 2. Tr.)

It is revered throughout the whole of the Islamic world from Bukhara to Morocco, and, next to the *Muatta*, constitutes the most important source of our knowledge of the law and doctrinal principles of Islam.* Henceforward grew the zeal with which men devoted themselves to the collection of traditions, and immense collections, each the work of a life-time, followed in rapid succession. Simultaneously with this compilational activity began the criticism of the sources of traditions. When great value was set on traditions and increasing demands were made

* The Sunnis and the Wahabis recognise "six collectors of tradition" and their collections are known as the *Sihah-Sittah*.

(1) Sahih-i-Bukhari, called after Abu Mohammed Ibn Ismail, a native of Bukhara. (See Krehl.)

(2) *Sahih-i-Muslim*, called after Muslim Ibn Hajjaj who was born at Nishapur, a city of Khurasan. He collected about 300,000 traditions, from which he made his selections.

(3) *Suani-Abu Daud.*—Abu Daud Sijistani, a native of Sijistan was born A. H. 202. He collected about 500,000 traditions from which he selected 4,800 for his book.

(4) *Jamaih Tirmidhi.*—Abu Isa Mohammed Tirmidhi was born in the year 209. He was a disciple of Bukhari.

(5) *Sunani-Nasaii.*—Abu Abdur Rahman Nasaii was born in Nasa, in Khurasan in A.H. 214 and died A.H. 303.

(6) *Sunan-i-ibn Majah.*—Ibn Majah was born in Iraq. His book contains 4,000 traditions. The Shiahs reject these books and have five of their own, of considerably later date than any of these. They are: the *Kafi* by Abu Jafar Mohammed, A.H. 329, the *Mán-la-yastahzirah-ul-Fakih* by Shaik Ali, A.H. 381, the *Tahzib* and the *Istibsar* by Shaikh Abu Jafar Mohammed, A.H. 466, the *Nahaj-ul-Balaghat* by Syed Razi, A.H. 406. On Bukhari, see Z.D.M.G., Vol. IV, pp. 1 *et seq.* See Goldziher's article in the Z.D.M.G., Vol. L, p. 465 *et seq.* Tr.)

for them, the supply, as might be expected, increased in proportion. If genuine traditions were not forthcoming, false ones were forged and put into circulation as genuine. For this reason Muslim *savants* (probably as early as the time of Malik), early formulated rules for distinguishing false from genuine ones. By way of illustration let us choose a tradition and show how its genuineness was tested. The third tradition in the *Muatta* runs : Malik relates from Yahya Ibn-i-Said, from Umra the daughter of Abdur Rahman, from Ayasha the wife of the Prophet, who said : "The Prophet performed the early prayer, and the women returned from the prayer, wrapped in their upper garments, so that they might not be recognised by reason of the twilight." This tradition is cited to prove that Mohamed was wont to perform his morning prayers before sunrise, and is authenticated by an unbroken chain of traditionists, the last of whom is Malik. Every narrator called as surety for the correctness of the traditions, is known as trustworthy and given the first place in the list of authorities. Such a tradition is accepted as unassailable (*Sahi'h*). If one chain in the link is missing, it becomes faulty or incomplete, and if the name of the first narrator is wanting, as the name of Ayasha in the tradition quoted above, the tradition is deemed unreliable. But not

merely might such patent defects make a tradition unreliable. Critics went further and examined the entire chain of traditionists, testing their trustworthiness, their accuracy in the repetition of the texts, and other conditions of life. As a result of these inquiries individual traditionists were declared safe, weak, or wholly untrustworthy. The first biographical works arose from these inquiries about persons whose names appeared as traditionists. Very early texts were prepared, containing names running up to many thousands of men who had come into contact with the Prophet, in which their lives were discussed and their degree of credibility as traditionists fixed. Later on they went a step further, and extended the inquiries to the successors of the companions and contemporaries of the Prophet, and finally to the successive generations of traditionists.

In this way an examination of the countless traditions proceeding from the most diverse sources was rendered possible, but it needs scarcely be said that the standard of criticism was anything but high or discriminating.*

* Von Kremer has already spoken of Ibn Abi Auga. I shall here add a few other examples to show the *Hadith* fabrication. "The tradition-critic Asim-ul-Nabil (died in Basrah in A. H. 212 at the age of ninety) has plainly said: My experience is that the pious in no other matter, are more ready to speak untruth than in traditions. His Egyptian contemporary, Yahya-b'Sáid al Kattan, has spoken in a similar strain.

Who could vouchsafe trustworthy information about many thousands of persons whose names appeared in the traditions? Who could guarantee the authenticity of information about their lives, probity and credibility? Even in the early days of Islam a whole mass

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He died 192 A. H." Goldziher, Muh. Studien, Vol. II, p. 47. Waki says of Ziyad bin Abdullah that he in spite of his noble virtue used to lie in *Hadith*. Goldziher, p. 48. By the 2nd century of A. H. Muslims had fully realised that many false traditions were incorporated in the *Sunnah*. *Ibid*, p. 48. "A careful and critical enquiry about the narrators of traditions commenced at the time of Ibn Aun Shai'ba (died 150 A. H.), Abdullah bin Mubarak (died in 181 A. H.) and their contemporaries and in a most severe manner, indeed, in Iraq, where religious and political parties fought most fiercely against each other, and used, in the contest, all the most ingenious means—temporal and spiritual—to secure their triumph. In consequence of a systematic collection of *Hadith*, in the 3rd century, the choice between correct and doubtful, and the rejection of spurious and false traditions became a pressing need. Tradition-criticism, accordingly, became an important element of the science of tradition, and it burst into full blossom in the 3rd and 4th centuries of A. H. We shall mention two most important works of this period which are still to be had: *Kitabal Dua'fa* of An Nasa'i (died 303), and *Al Kamil fi Ma'rifat Duafa' al Mutahaddithin* of Ibn Adi (died 365) Goldziher, Vol. II, pp. 141 and 142. I might here mention the "fabricated traditions" of Abul Faraj.ibn-ul-Jauzi (born 508 A. H., 1114-5 A. D., died at Baghdad A. H. 597, A. D 1281), Jarett's translation of Suyutis *Tarith-ul-Khulafa*, p. 15. *Note.*—The tradition-criticism consisted of a twofold enquiry. The credibility of the *Rajal*, and the soundness of the chain of *Isnad*, Goldziher, Vol. II, p. 151. Sir William Muir, in his life of the Prophet, says: "But the European reader will be grievously deceived, if he at all regards such criticism, rigorous as it was, in the light of a sound and discriminating investigation into the credibility of the traditional elements. It was not the *subject matter* of a tradition, but simply the names attached thereto, which decided the question of credit. (Vol. I, p. xliv. Tr.)

of false and invented traditions was put into circulation. In later times this increased in volume and proportion. Thus the later collection of traditions was made more doubtful and suspicious.

The instance of Ibn Abi Auga suffices to illustrate the extent of the fabrication of traditions. Before his execution in A. H. 155 (772 A. D.), he confessed to having put in circulation 4,000 traditions of his own make (Ibn Athir, Vol. VI, p. 3).

The School of Kufah was particularly noted for such traditions, and the Kufan traditions were therefore looked upon as intentional fabrications.* In such traditions, it is scarcely necessary to mention, not only the text but even the *Isnad* was invented. Early, indeed, did the Arabic literature possess works on fabricated traditions and false and weak traditionists. In spite of it the Arab standard of criticism was and remained a clumsy and ineffectual weapon. Orthodoxy succeeded in regarding as genuine every tradition which expressed the glory of the Prophet or of Islam, or chimed in with the dominant religious sentiments. Many undoubtedly false traditions were thus incorporated in the *Sunnah*. The Rationalists (Mutazalites), at war with the Orthodox, proceeded in a far bolder spirit, and applied a much severer

* Zurqani, II, p. 7. Ibn Asakir, History of Damascus, Ms. F. 5.

textual criticism. The Rationalist Nazzam did not hesitate in calling Abu Huraira, Companion of the Prophet, who appears as the narrator of innumerable traditions, a liar.* This very Nazzam has said—a truly remarkable saying in the mouth of a Muslim—"*the first absolute requirement of knowledge is doubt.*"† But with the victory of the orthodox party such attempts ceased, and accuracy in the textual forms alone decided the genuineness of traditions. Even in circulating traditions, people later on became indifferent, nay, dishonest. While in earlier times license for delivering lectures was granted only to those who had learnt a work on traditions under a professor, or had made certified copies under the supervision of a *Shaikh*, the practice gained more and more ground of simply purchasing the license, as was the case not very long ago with doctors' degrees at certain universities.

The mischief became so rampant that professors sold licences to candidates whom they had never seen.‡ The custom of parading certificates from learned professors had struck root in the 3rd century. These certificates were obtained with the greatest ease, and on that account

* Maqrizi, Khittat, II, p. 346.

† Tartushi, An mudag-ul-'Ulum, Ms. of the Royal Library, Fol. 53.

‡ Sprenger, Z. D. M. G., X, p. 10.

Ghazzali made them a subject of the most biting criticism.

3. The Juristic School of Medina.

Even as early as under the first Caliphs, a school of law and traditions was established at Medina—the birth-place of traditions and the jurisprudence evolved out of them. Under a series of distinguished men it attained more and more importance. Two persons may be called its founders, Abdullah ibn Masu'd and Abdullah-ibn-Abbas. Ibn Masu'd was one of the earliest and most zealous followers of Mohamed, and held the position of *Major Domus* and a friend of the family. Many of the distinguished Companions of the Prophet, traced their traditions to him. He was reckoned as best acquainted not merely with the Quran but with the general disposition and frame of mind of his friend and master. For this reason Omar I sent him, as religious instructor, to Kufah. It appears that later on, while defending his own, he disputed the official revision of the Quran undertaken by Uthman. He died A.H. 32 (652-4 A.D.) at Medina.* Next to him is to be mentioned Abdullah Ibn Abbas—cousin of

* Sprenger, Das Leben und die Lehre Des Moh., I, p. 440. The above statement is taken from ' *Usud-ul-ghabah.*

Mohamed. He was noted for his knowledge of traditions, and of the law and especially the exegesis of the Quran, of which he was the founder, and was regarded as possessing the most accurate knowledge of the judicial decisions of the first three Caliphs. He died A. H. 68 (687-88 A. D.) at Ta'if. As cousin of Mohamed he was one of the most zealous collaborators of the legends glorifying the Prophet. It may well be doubted if he had much to relate of his own personal intercourse with the Prophet, since at the time of the Prophet's death, he was merely a boy of thirteen, or according to another account, of fifteen. As a pupil of Abdullah ibn Masu'd he enjoyed the greatest reputation, and was regarded as an authority of the first rank in all questions relating to the exegesis of the Quran and jurisprudence.* A succession of jurists, theologians and traditionists followed these two men, and are known under the name of "the seven jurists" of Medina. Without exception, they stood either in close relation to Mohamed or to his family. They sifted and arranged the rich materials, and gave form to a large portion of the traditions, collected the decisions of the first Caliphs, used them as the source of law, and called the exegesis of the Quran into being. They were :—

* Sprenger, III, CVI.

I. ' Utba-ibn Mas'ud, a brother of Abdullah-ibn Mas'ud.

II. Said-ibn Musyyab, famous as the most distinguished jurist of Medina, whose legal opinions were regarded as final and decisive.*

III. ' Urwdh-ibn Zubair, son of Zubair-ibn Awwam, a relative of Khadijah, the first wife of Mohamed. He related many traditions on the authority of his father, a most distinguished Companion, his brother, Abdullah, and his aunt Ayasha.†

IV. Abu Bakr Abdur Rahman Makhdumi, surnamed the Monk of Quraish, on account of his ascetic tendencies. He related traditions chiefly on the anthority of Ayasha, Abu Huraira, and Umm Salma—also a wife of the Prophet. He died towards the end of the first century (93 or 94 A.H.).

V. Kharijah ibn Zaid. Details of him are unknown. He died in A.H. 100 (718-719 A.D.), at the age of 70.

IV. Kasim ibn Mohammed, a grandson of Abu Bakr. He related traditions on the authority of Abdullah ibn Abbas, Abu Huraira, Ayasha and others. He died in the beginning of the second century (108 or 112 A. H., 730-31 A.D. Nawawi.)

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* His death occurred in 93 or 94 A. H. (711-13 A. D.), Nawawi, Tahdhib.

† He died in 94 or 99 A. H. Nawawi Tahdhib.

VII. Sulaiman ibn Yasar, a client of Maimuna, wife of the Prophet. He received his traditions from Abdullah ibn Abbas, Abu Huraira, and Umm Salma. He died about 109 A.H., or according to others 103 A.H. (72I-22 A.D., Nawawi, p. 223).

Looking at this list, we see what a small number of men gave the first impulse to traditions and the consolidation of traditions. The still unshaped ideas, opinions and dogmas were settled and welded together in this, the oldest, workshop of Islam, by co-workers who had stood in close relation to the Prophet, or were actually related to him. They were inspired by the same purpose, and sought the same goal. Surprising indeed is the great share taken by women in the rise of traditions and of the juristic principles deduced from them. No less than three widows of the Prophet are mentioned among the persons from whom the seven jurists received their traditions. Of these widows of the Prophet it was Ayasha especially who not merely developed the most conspicuous political talents, but also inherited the prophetic office from her holy spouse. Under the first three Caliphs, she was consulted on all difficult legal points. As to this, however, we should not forget that such questions always dealt with legal matters corresponding to the simple conditions of the times. With clear

understanding and experiences of life, and sound common sense, it was not difficult to decide such questions, and Ayasha was well endowed with these qualities. But wherever such assistance was of no avail she always had an approved and effective specific from the Prophet's dispensary. She appealed to a genuine saying of Mohamed or to a fictitious one which she invented for the occasion and thus silenced opposition. This procedure was decisive, and the Muslim community was accordingly enriched with a new tradition. Nobody dared to doubt, for who could know the Prophet better than Ayasha, his wife? In their judicial decisions the seven jurists of Medina followed a similar procedure; only they had to make the most of traditional matter handed down to them by Ayasha and others. They could scarcely venture to invent new traditions. Others, however, took care of that. There is no doubt that the supply of traditions flowing from all sides was already rich enough to meet all conceivable cases. The rule of historical criticism had not been so thoroughly settled as to place a substantial restraint upon the choice of traditions. Even the celebrated Said ibn Mussayab has handed down many traditions with a defective chain of names. We learn from his biography that he lived from the income of his oil trade. At that time, and even partially up till now, every one busies himself in the East with some trade

or craft for his livelihood. There were few government posts, and the modest independence which a trade or craft offered was always prized as the most honourable fortune. Said's study of tradition and jurisprudence was quite a matter of taste and religious sentiment. With other jurists of his age the same seems to have been the case. They were not practical judges or professional advocates. They pursued the study of law without any worldly consideration, and gave their opinions when called upon by the parties to do so. The jurisprudence of that time was therefore pre-eminently and indeed exclusively casuistic. Only later theories were evolved out of them, and they proceeded from the concrete to the general. The first to grapple with this task was Malik, who drew largely upon the work done by "the seven jurists." His "Corpus Juris" is therefore the sum-total of legal opinions generally current in Medina in the first century of the Hijra. Malik's exclusive basis was the legal teaching current in Medina, and he quite energetically disputed the theory of the general agreement of the Muslim community set up by the jurists of the provinces; for him the traditions of Medina were alone decisive and final. He is therefore the representative of the strict historical school of law.*

* Ibn Khaldun. Proleg, III, pp. 6-7. (In addition to the Quran and the *Sunnah* there are two other great sources of Muslim law, *viz.*, the

His chief merit consists in not merely confining himself to the accounts of the deeds and sayings of the Prophet, but in systematically arranging them according to the materials. For instance, he collected together at one place all traditions relating to the law of succession, marriage, contract, etc., etc. In formulating the legal principles, he always took the Common Law of Medina as his basis, and to it he attached such an importance that he had no further recourse to traditions. His work is not a lifeless compilation, but from various passages it is clear that he strove to straighten out the confused mass of collected materials, and to cast them into a system of Medinite Law. For example, he opens his chapter on Succession thus: "The unanimous view with us in Medina (I entirely agree with the scientific men of our town) is the following as regards Succession, etc., etc." But Malik has also made use of the judicial maxims of the first Caliphs,

Ijma (concurrence) and *Kiyas* (Deduction). The *Ijma* consists of the decision of the Companions of the Prophet (*Sahabah*) the disciples of the Companions (*Tabiwun*) and the pupils of the disciples. These decisions are found to have been unanimous, and are next in authority to the Quran and the *Sunnah*. The *Kiyas* (deduction) which is the fourth source of Muslim law, consists of analogical deductions made from a comparison of the Quran, the *Sunnáh* and the *Ijmah*, when these do not collectively or individually apply to any particular case. This exercise of private judgment is allowed with a greater or less freedom by different Muslim sects. Some, however, deny its authority altogether.—Maulvi Yusuff, "Review of the Law of Waqf," p. 234. Tr.)

and especially of the earlier judicial decisions, as also of the traditions. Thus he adopted the humane principles of Omar I; as, for instance, according to Omar, a female slave giving birth to a child, the offspring of her master, could no longer be sold, but was to be set free after his death; and this legal rule has ever since become the fundamental basis of the law on the subject.*

4. The Juristic Schools and their Teachings.

Precisely at the time when a school of juridico-theological studies was formed at Medina resting essentially upon traditions, and therefore having pre-eminently a historical foundation, another school of jurisprudence arose in another province of the empire; *viz.*, in the prosperous and populous towns along the basin of the Euphrates, where, in consequence of increasing affluence, civic life, and growing commercial activity, the necessity for well-defined legal rules and principles was no less pressing than in Arabia proper. Proceeding upon other lines, this school founded a system essentially different from that of Medina. While the Medinites constantly relied upon traditions or earlier decisions of judicial authorities, the school of Iraq cared little, as it appears, for the collection of traditions, or the formulating

* Sharh-ul-Muatta, III, p. 25.

of general legal rules deduced from them. Its activity was that of practical judges who had to solve countless disputes coming before their tribunal in the great towns of Iraq. For this purpose they made a liberal use of analogy and the deductive method (*Kiyas*), whereby they were able to pronounce decisions in cases unprovided for in the Quran, *Sunnah and Atar*. Early indeed on that account did this school receive the name of the school of speculative jurists (*Ashab-ur-Rai*), in contradistinction to the school of Medina, called the traditional or the historical school. Thus, besides the Quran and the *Sunnah*, the juristic speculation added the deductive method, later supplemented by the agreement or consensus of the community, (*Ijmâ-ul-Ummah*) as the further sources of Muslim Law. Of this school the first jurist of any importance whose name the Arabic literature records was Ibn Abi Lyla, who exercised judicial function in Iraq and died about 148 A. H. (765-6). He was finally appointed judge under Mansur, and used to deliver his judgments according to the speculative method (*Kiyas*).* Several other jurists of that time are mentioned who adopted this method. But Abu Hanifah—the greatest jurist of his nation (d.A.H. 150, 767 A.D.)—has eclipsed all his predecessors. As the oldest and rarest works of Arabic

* Fihrist, p. 203 ; Ibn Qutaibh, p. 205.

literature have gradually become accessible in European libraries, his full importance has been revealed, and we have obtained a view, as surprising as it is fascinating, of the intellectual movements of those times, when the Arabs were the only civilized people in whose many-sided activities we perceive the quickening and animating influence of youthful vigour and hardihood.

It is singular, that the school of Iraq has left considerable work neither in the way of criticism of traditions nor in that of juridical literature. Of Abu Hanifah, certainly the greatest jurist not merely of his age but of the entire Islamic world, nothing has come down except the titles of some small treatises.* He never cared for a judicial appointment, but in the fashion of the ancient masters he dedicated his whole life to the oral teaching of his system of laws. He did this more out of regard to the fulfilment of a religious duty than with a view to establish

* I must still uphold the view that *Al-Fikh-ul-Akbar* is not Abu Hanifah's, in spite of its appearance in the *Fihrist* among his works. The historians of Arabic literature mention another work of his, *viz.*, a *Musnad*. That this is not a genuine work of his is shown most conclusively from the fact that the author of the *Fihrist* neither mentions this nor any other work of Abu Hanifah on traditions. *Fihrist*, p. 202. (Von Kremer on p. 39, of his Gesch. d. hersch. Ideen gives reasons for his doubt. He doubts the genuineness of *Al-Ftrh-ul-Akbar* on the ground that it contains a protest against the Murjiah sect to which Abu Hanifah himself belonged. See Brockelmann, Gesch. der Arab. Litt., p. 170, Vol. 1. Tr.)

his fame or to win laurels in the literary world. Literary ambition, which later became so keen and lively among the Arabs, scarcely then played any part. Abu Hanifah lived upon his moderate income as a merchant. It would have been difficult to give a correct estimate of Abu Hanifah's juristic works, had not a happy chance preserved for us the work of one of his most zealous followers and, indeed, a direct disciple, the *Kadhi*, Abu Yusuff (d. 182 A. H., 798 A. D.) which faithfully reflects the opinions and views of his master regarding one of the most important branches of law, Constitutional Law.* From this, however, we should not infer that he has not rendered equally important services to other branches of law. On the contrary he has set up a system of spiritual and temporal laws which has been developed by his disciples, and which, to this day, commands the unreserved assent of the greatest portion of the East. In the *Kuduri* we have the best exposition of Abu Hanifah's system (died 428 A. H., 1036-7 A. D.). Abu Hanifah appears to have been the first to lay a foundation of Constitutional Law which has been the accepted basis for all later times. We might easily indi-

* Abu Yusuff's work bears the title: Memorial to the Caliph Harun-ur-Rashid. He filled a very distinguished position at the Court of Baghdad. The catalogue of his numerous writings will be found in *Fihrist*, p. 203.

cate the causes which led to the developement of political and administrative laws in Iraq. With the accession of the Abbasids this province became the centre of gravity of the empire, the seat of government, whence the greatest portion of the then known world was governed. Early indeed on this account were they compelled in Baghdad to discuss the most important questions of political and administrative laws, of foreign politics, and of the foreigner's position, and to establish certain fixed and guiding principles with regard to them. Abu Hanifah and his disciple Abu Yusuff were the first to explore and to work upon this virgin soil.*

By religious persuasion, Abu Hanifah belonged to that moderate and tolerant sect known as the *Murjiah.* Quite in keeping with his character and his indulgent temper is the following story related of him. His neighbour in Kufah—a noisy drunkard—was wont to

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* (Goldziher in his 'Die Zahiriten' says: (p. 13) What we know is two-fold. Even before the time of Abu Hanifah the speculative study of law, which did not set any value upon traditional sources, had come to the front. Hammad-ibn-Abi Sulaiman (d. 112-120) appears to have been the direct precursor of Abu Hanifah and it is related of him that he was the first to collect round him a group of persons for scientific studies." Abu Hanifah is mentioned among his disciples. In the knowledge of the traditions this Hammad was very weak, but it is reported that he was *Afqah*, *i. e.*, the most conspicuous of his contemporaries in juristic studies. Secondly, that Abu Hanifah made the first attempt to codify the Muslim Law on the basis of *Kyas*, which was not done till his time. Goldziher. For further information on the Hanifite Jurists, see Brockelmann, Vol. I, pp. 168 et seq. Tr.)

indulge every evening in wine, and to sing in a loud voice the then popular song :—

"They have deceived me most shamefully,
And what a man have they deceived!
A hero in the day of battle,
And a loyal defender of frontiers,
Full of high courage and heroic frame of mind.
On death's terror-stricken scene of action,
The points of the enemy's lances
Feast on my breast."

This individual having been arrested one evening by the patrolling policeman, there was silence in his house. Abu Hanifah repaired to the Governor with the request to set him free. This was immediately done. Abu Hanifah asked him: "Are you not the man who sings every night:—

"They have deceived me most shamefully,
And what a man have they deceived!"

"Have I really deceived you?" "God forbid," replied the other. Then Abu Hanifah asked him to sing the song again. "For," said the jurist, "I have been accustomed to it, and see nothing objectionable in it."* This story completely accords with the humane, tolerant and sympathetic spirit which animates, enlivens and manifests itself in his judicial principles. An accurate knowledge of his disposi-

* Aghani, I, p. 165.

tion, his unvarying rectitude and impartiality, notably his extremely tolerant attitude towards other faiths, reveal him to us as a man ahead, by many centuries, of the narrow, straight-laced, unsophisticated views of his age and his people.

Of this we wish here to offer some further proof. The Muslim doctors looked upon people of other faith than Islam as fundamentally different from the orthodox Muslims, and the legal rules bear most clear expression of their view. The life and blood of an infidel was always deemed infinitety inferior in value to that of a Muslim. The Muslim, like the Hebrew Law, as is well-known, held by the *Lex Talionis* (*Kisas*). But the jurists allowed this only as between Muslims or free men, not as between Muslims and persons of other faiths, or slaves. Abu Hanifah was the first to look upon man as man, and to set up the principle that the life of an unbeliever or a slave was just as dear as that of a Muslim. He laid down, indeed, that in case of a murder the *Lex Talionis* should be just as applicable to the freeman guilty of the murder of a slave as to a Muslim guilty of the murder of an infidel.* Extremely severe was the Muslim law of theft. Abu Hanifah strove to mitigate its severity and harshness as far as possible.† He ruled, indeed,

* Mawardi, p. 392.

† *Ibid*, p. 385.

that in cases of theft of family property by parents, children, brothers and sisters, or other near relatives, a less cruel form of punishment than mutilation should be substituted. The reason is easy to understand. Just as the State-Treasury, according to the Arab conception, was regarded as the common property of all Muslims, so no less did Abu Hanifah regard the family property as common and joint. Thus, such a theft could not be treated as a common theft, for in fact a certain share belonged to the thief himself.* He ruled, moreover, that a thief guilty of several acts of theft in one and the same transaction, should only once suffer the legal punishment for all the acts.†

No less lenient a view did he take of the other offences. The veneration of the Prophet, as is well known, bordered upon veritable deification. To slander or calumniate him was blasphemy, a sacrilege, and the doctors of Islam regarded death as the only proper punishment for that offence. But Abu Hanifah made an exception in favour of women guilty of blaspheming the Prophet, holding that they

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* *Mukhtasar-ul-Kuduri, Kitab-ul-Sirqa.* In Abu Yusuff, Fol. 93, it is further added that the slave who commits theft in respect of his master's property could not be punished with mutilation; even among the Romans, theft by husband and wife in respect of each other's property was not considered as an ordinary *furtume.* "Puchta, Cursus der institutionen," IV part, Vol. III, pp. 196, 294.

† Abu Yusuff, Fol. 92.

need not be killed but only chastised, to correct and bring them back to the fold of Islam.* Another instance of Abu Hanifah's tolerant principle is the sanction it accords to persons of other faiths to become witnesses of a marriage contracted between a Muslim and a woman of other persuasion. Abu Hanifah and Abu Yusuff expressly allowed two Jews or Christians to become witnesses in such a case; while other jurists of the Hanifite school restricted this to Muslims only. As regards the law of pre-emption Abu Hanifah made no distinction between Muslims and professors of other faiths. The omission to say the prescribed prayer was regarded as an offence against religion. Ahmed Ibn Hambal ruled that it amounted to apostasy, and was punishable with death. Abu Hanifah, in this case too, took a liberal view, and ruled that at most it deserved mere corporal punishment (Mawardi, cap. 19). The subject nations, according to many jurists, were to be treated like infidels, if they were guilty of a breach of treaty, *i.e.*, war was to be declared against them if they refused to accept Islam, grown-up men were to be killed, and women and children were to be taken as slaves. Abu Hanifah, here too, represents a more humane view, *viz.*, that they were simply to be

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* Abu Yusuff, Fol. 99.

banished from Muslim territory. These facts abundantly prove that Abu Hanifah was a champion of leniency, toleration and mercy, and that, at a time of unbridled fanaticism. Even if we had known nothing beyond what has already been stated, he would deservedly be called one of the noblest of his nation. His legal system represents the highest development of which a system of religion and politics, so closely knit together as that of Islam, was capable. The school of theology and jurisprudence which Abu Hanifah founded, and which shortly after his death became dominant in Baghdad and at the Court of the Caliph, was soon officially recognised in the whole of the Empire and bore the name of the Hanifite system after him. Up to the present day the Ottomans and the court of Constantinopole, as also the greatest portion of the population of the East Turkish countries, acknowledge their adhesion to it. With the rise of Abu Hanifah and Malik it seems that scientific and literary activity was chiefly directed towards juridico-theological studies; for henceforward this branch of learning became the most extensively cultivated of Arab Learning. Two of Abu Hanifah's disciples are especially mentioned. Abu Yusuff (113-182 A. H., 731-99 A. D.), who under Harun, the contemporary of Charles the Great, was the chief judge of

Baghdad, where he enjoyed the highest respect and commanded the greatest influence, and Mohamed Shaibani, equally distinguished and far-famed as Abu Yusuff. At the request of Abu Yusuff he wrote his still extant and authoritative work on the Hanifite jurisprudence, which was held in such high regard that no one was deemed fit for the post of a judge, who had not passed an examination in it.*

As a result of this intellectual activity new schools of law constantly grew up. About fifty years after Abu Hanifah's death (195 A.H., 810-11 A.D.) Shafa'i came to Baghdad and began to lecture there. He had studied at Mecca and had attended the discourses of Malik. He soon acquired so great a reputation that the number of his pupils counted in thousands, and the school of law founded by him was recognised, with the earlier schools of Malik and Abu Hanifah, as the third orthodox school and bears the name of the Shafa'ite system after its founder.† This school was midway between those of Malik and Abu

* On Abu Yusuff, see Hammer—Purgstall, Lit. Gesch. d. Araber, III, 173; Ibn Qutaibah, p. 251, and on Muhammad Shaibani, see Hammer, III, 113, and Nawawi *Tahdhib*, p. 103.

† Shafa'i was the first to deliver learned lectures on the science known among the Arabs as the *Ilm-i-Usual*, *i.e.*, science of principles. It lays down rules for the use of the Quran, (*Sunnah*) for judicial decision and the inferences to be drawn from them. Shafa'i, in his political convictions, is said to have strongly inclined to the Shi'tes. He died (204 A. H., 819-10 A. D.) Hammer—Purgstall, III, p. 103, Nawawi, p. 56.

Hanifah. It tended more towards the severely historical school of the former in contradistinction to the speculative tendencies of the latter. It rapidly spread on the Arabian coast, especially in Syria, in Egypt and Iraq where it prevails to this day. It even penetrated into India, and is still in full force in Java,—its extreme eastern limit.

Ahmad-ibn-i-Hambal, a pupil of Shafa'i, was the founder of the fourth orthodox school of law. He appears to have undertaken the task of purifying and restoring the later Islam to its original simplicity. He carried the belief in the literal interpretation of the traditions to its extreme, made a large collection of them, and with a remarkable liveliness defended the anthropomorphic conception of God of the old orthodoxy. He became the founder of a most bigoted and fanatical sect, which in consequence of its harsh tendencies did not find much diffusion, but which frequently occasioned breaches of the peace in Baghdad. It only now obtains in Central Arabia, and out of it proceeded the Wahabite re-action.* While these founded the four orthodox schools which worked out on strictly orthodox lines their special system of theology and jurisprudence—closely linked with each other,—some minor systems appeared along with them

* Hammer—Purgstall III, p. 110; Nawawi, p. 142. Fihrist, p. 229.

which sought, with more or less success, to assert their peculiar views, yet without altogether forsaking the ground of orthodoxy. In this connection Auzai is to be mentioned first. He lived towards the end of the first century A. H. (88-157 A. H., 707-774 A. D.) in Syria and in Damascus and Beyrut; but none of his works have come down to us.* His followers, chiefly in Syria, completely disappeared later. His grave in Beyrut, on the sandhills extending along the sea-coast to the west of the town, is still reckoned as a holy place. A cupola, now in decay, surmounts it, and is shaded by an old tree visible from a long distance.

Abu Taur (240 A. H, 854-55 A. D.) established another independent system which commanded the homage of the people of Adherbaijan and Armenia.† Far more important than these was the school of Daud-ibn Ali (d. 270 A.H., 883-4 A.D.), who set up the principle that the Quran and the *Sunnah* should only be interpreted in a literal sense for judicial purposes. With this doctrine he stood in opposition to the *Hanifites*, and approached in all appearance the *Hambalites.* This conception of law extended as far as Spain.‡ Alongside of the orthodox sects,

* Fihrist, p. 227. Nawawi, p. 382. Hammer—Purgstall, III, p. 111.

† Fihrist, p. 211.

‡ Daud-ibn Ali was of Persian descent, born in Kufah in 202 A. H. (817-8). He settled down in Baghdad where he died in 270 A. H. He

standing on the ground of orthodoxy, the dissenting parties also, especially those of the Shi'ites, did not fail to found juridico-theological systems corresponding to their religious and political views which more or less departed from the orthodox schools. Among the Shi'ites the fabrication of Hadith proceeded, on a very extensive scale, in support of the doctrine of the infallibility of their religious high priest (Imam) of the family of Ali and other doctrinal matters, often diametrically opposed to those of the *Sunnis.* By these conscienceless methods, the value of their work was considerably impaired. Their fanatical zeal for Ali and his descendants, and their hatred of the first two Caliphs, especially Omar I, led them to employ every conceivable means to secure success for their political efforts, which were directed towards the fall of the ruling dynasty. The juristic doctrines of the Shi'ites are still dominant in Persia and broadly agree with those of the Sunnites.* The other extreme

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enjoyed the special favour of Shafa'i. Dau'd held strongly the views that in the use of the Quran and the *Sunnah* for judicial purposes, analogy and deduction were to be rejected and the literal sense, to the exclusions of others, was to be adopted. Nawawi, p. 276. The catalogue of his numerous works will be found in the *Fihrist*, p. 216.

* The separation of the Shi'a branch from the Orthodox did not occur till the 3rd century of the A.H., when Orthodox Islam had already secured its system of laws. From this it is manifest that the Shi'a Law differs only in few points from the former; the basis of the two systems being apparently common.

politico-religious parties of the democratic Muslims similarly gave expression to their own theological and judicial convictions. This, shortly speaking, is the path pursued by the Muslim Law. The more the Muslim Law assumed rigid forms, the more did intellectual activity slacken. The epoch of systematisation, discussion and glosses followed the unfettered love of work and creative power. Polemical literature and voluminous commentaries on old masters came into fashion. The great doctors of the earlier centuries soon began to be looked upon as men whose works could not be surpassed or even rivalled by their successors. It was held that the great doctors of the past alone were endowed with the divine gift of explaining the revelations and the *Sunnah* (*Ijtihad fil Sunnah*), and that they alone had known and taught all knowledge, more than which it was wrong to know. As such unrivalled masters of science and learning, besides the Companions of the Prophet and the Tabi'un, were the above mentioned four sectarian founders : Malik, Abu Hanifah, Shafa'i and Ahmad Ibn Hambal.* These were the authorities of the first

* Besides these four there were two others, Sufian Thwari and Da'ud Ibn Ali. Sufian on account of piety and knowledge of traditions and law acquired a great celebrity. He is often cited as authority in difficult cases, but none of his works has come down to us ; for he enjoined in his will that all his works were to be burned after his death. He died 161 A.H. (777-8 A.D.). Ibn Qutaibah, p. 250. He was regard-

rank, whose decisions in legal matters passed unchallenged. The pupils of these great masters possessed authority in a lesser degree. It was not held that these disciples had power to alter any principles of law, but that on questions not affecting principles, they were at liberty to express their own views. This is termed the right of speculation within the school. (*Ijtihad fil Madhab*).

Standing on a lower platform was the great crowd of jurists belonging to one or other of the different schools. They were empowered to decide specific questions of law, and their decisions were looked upon as binding provided they conformed to the principles of their school and of its great legal lights. According to Muslim Law, the duty of the judge was to pronounce decisions in conformity with the precedents furnished by the judicial authorities; such authorities of the first rank being the Quran, the *Sunnah*, and the doctrines of the great masters, the so-called princes of science, which by general consent of the Muslim people (*Ijma-ul-ummah*) had acquired force of law.*

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ed like Da'ud Ibn Ali as the founder of an orthodox school. Sufian and Da'ud, therefore, raise the number to six. Sufian's works have been handed down to us by his disciples, who had learned them by heart. *Fihrist*, p. 325.

* Henceforward the greatest diversity of opinion prevailed on the right of *Ijtihad*, *i.e.*, free enquiry into religion and temporal laws. Some,—and these were the severe old orthodox—would not admit it

5. The System of Hanifite Law.

The legal system founded by Abu Hanifah was further worked out by his disciples and, in course of time, found countless commentators and enthusiastic admirers. Its literature grew into gigantic proportions. One of the most considerable and largely accepted works of the earlier times is the compendium of *Kuduri*; regarded even to this day as an authority of high note in the law schools of the East. For the principles of the Hanifite law I have drawn upon this book.

I have dealt with Muslim law as a whole, and have offered some observations on its arrangement and division. I have also given a succinct survey of the most important legal principles from the point of view of the historian of civilisation. It is as idle to

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at all, and held firmly by the letter of the Quran and the *Sunnah*. The representatives of this view were Hambal, Shafa'i and especially Da'ud Ibn Ali. The real founder of true enquiry into law was Abu Hanifah; and his view became dominant. A learned doctor has very correctly observed: "By far the greatest portion of Muslim Law is the outcome of true enquiry, for the actual passages of the Quran and the *Sunnah* have not contributed even a hundredth part to it." Nawawi, p. 237. Such legal rules were accepted by the Muslim community as a whole, obtained the force of law, and were henceforward regarded as an integral part of the Islamic Law. But Shafa'i would not acknowledge them. Nawawi, p. 257. Later on the rule was even set up that the entire body of the faithful, as such, was infallible, and whatever they agreed upon was legally binding on all. Ibn Khaldun, Prolég. III, pp. 26 & 28.

expect in the Arab *Corpus Juris*, as in the Roman Pandects or the Basilika, a methodical and severely logical treatment, such as we find in the works of European Jurists. But by an ingenious division of the entire mass of laws under individual headings indicating the most important matters of religious and municipal laws, judicial procedure and penal offences, the Arab jurists have managed to secure a very serviceable arrangement of the immense material.

It is not at all difficult for one acquainted with the systematic division of judicial works to track out in the text references to any given case. These Arab jurists always placed religious laws in the forefront; very exhaustively discussing the rules of ablution; ordinances relating to prayers,* fasts, pilgrimage to Mekka, *Jehad*, sacrificial animals, and the legally prescribed method of the slaughter of game. With these religious laws, which we shall discuss elsewhere, were coupled, without any severe demarcation, the rules of civil law, according as they related to person or to property. Every subject was dealt with independently under its proper

* [The Quranic precepts as to prayer savour of Jewish origin. Thus "Prayer should be said standing" is a Rabbinic precept. Compare Sura (XCI) II. 240 Misch. Berachoth, 10:—prayer may be shortened in dangerous places, *ibid*, IV. 10:—It is forbidden to the drunken, *ibid*, 31-2. Erubin, 64, and to the polluted; Berachoth, III, 4, and is to be preceded in this case by washings with water or sand. See Sura, XVII 110, note 2, p. 174; 1 cor. XI., 21, Rodwell's Qur'an, p. 457, note 1. Tr.]

heading; thus the law of inheritance, the law of divorce and its several methods, the legal claim of the divorced wife to maintenance, the law of slavery, the law relating to patrons and clients, the different modes of manumission and purchase of freedom by slaves, curatorship (*Hajr*, *Capitis Diminutio*), the legal status of foundlings, etc., etc. After these followed the law of property, a branch of law cultivated by the Arabs with remarkable diligence and aptitude. Of special importance, in the affairs of practical life, were the laws of purchase and sale, loans, and letting and hiring; contracts for the share of profits, and contracts for storage, and other contracts which resulted in transfer or extinction of rights; *e.g.*, power of attorney, suretyship, substitution, accord and satisfaction, and gifts. A specially thorough treatment was accorded to the law of inheritance and wills. Then followed rules of judicial procedure, evidence, oaths, confession, and rules for the guidance of judges. Finally, an important part of all Arab law books treated of penal offences, crimes, composition-money for murder, the measure of punishment for theft, unchastity, etc., etc., and other lighter offences against personal security.

To these main topics of the *Corpus Juris* are appended discussions on miscellaneous legal questions which should doubtless find a place in

administrative law; *e.g.*, reclamation of waste land, and acquisition of proprietary rights in the same: moneys settled in the form of trusts on objects of piety or general utility: finally, police regulations dealing with trover, acts forbidden or permitted, forcible appropriation of alien possessions, violence and intimidation. This should suffice to convey, some idea of the rich contents of the Arab *Corpus Juris*, which alone, had other monuments of Arabic literature perished, would have testified to their highly developed civilisation at a time when the Arabs were the premier nation of the world. Next to the Romans, there is no other nation, besides the Arabs, which could call a system of law, so carefully worked out, its own.

Now that we have given a general survey of the arrangement and division of the Muslim *Corpus Juris*, we proceed to examine a little more closely the more important rules of their Substantive Law. We shall pass over what Abu Hanifah and other jurists have always placed in the forefront, *viz.*, the laws concerning Religion, and proceed at once to a consideration of those concerning Commerce, which will give us the surest glimpse into the spirit of that age, both as regards the practical use and the scientific conception of its legal principles.

(*a*) *Contracts of Purchase and Sale.**

Contracts of purchase and sale occupy a most conspicuous place. Sale, Abu Hanifah taught, consisted of an express and unequivocal offer and acceptance. A withdrawal from the contract of sale was only possible on the score of proved defects in the goods, or of want of examination prior to acceptance. It was not legally necessary that quantity, weight, or measure of the purchased goods should be precisely known at the time of the contract, but the sale price was to be always certain and definite.† A sale might be a cash sale, or a sale on credit; in the latter case the time for payment was to be definitely settled.

Sale without a fixed price was invalid. In commercial transactions various reasons might cause the cancellation of a contract of sale. (1) At the conclusion of the transaction both the buyer and the seller might reserve to themselves the right of concelling the contract within three days. (2) It might be arranged that the sale was to be completed after the inspection of the goods. (3) If the purchaser discovered a defect in the goods he might

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* For 'contract of purchase and sale,' see De contractu, do ut des of Van den Breg. Leydon, 1868.

† (Pretium autem certum esse debet. Gaius, Institutiones juris civilis, s. 140. Poste's ed., p. 390. Tr.)

withdraw,* but if he retained the goods, he could not demand a reduction in the purchase price. Sale, with delivery, within a fixed period, was permissible of goods which had to be weighed, measured, or counted. Sale of goods, not in existence at the time of the contract, was illegal. The period of delivery had always to be definitely fixed. Abu Hanifah imposed the following conditions for the validity of contracts of sale: (1) statement of the kind of goods; (2) statement of the species; (3 & 4) description of quality and quantity; (5) period of delivery; (6) price; (7) place where delivery was to be taken. All sales were invalid where the subject matter belonged to the category of things forbidden by law. The rescinding of a contract by mutual consent (*Ikalah*) was always permissible.†

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* *Cf.* Judicium redhibitorium of Roman Law. Puchta: Cursus der Institutionem Fourth part, Vol. III, s. 275, p. 107. [Under Roman Law warrant of title and quality of the goods was held to be inherent in the contract of the sale. In the case of faults of quality the purchaser could either recover part of purchase money by actio æstimatoria or rescind the contract by actio redhibitoria. Poste's Gains, p. 394. Tr.]

† [The following note taken from Poste's Gaius will be interesting to the reader. "It is necessary to distinguish clearly between the conception of a contract of sale and the subsequent transmutation of property; between the creation of a *jus in personam* and *jus in rem;* between the acquisition of an obligation and the acquision of ownership. The contract is complete as soon as the price is agreed upon, but no property passes until the price is paid and possession is delivered, or in the case of a sale on credit, until possession is delivered." Dig., 18, 1, 19. 'Sale and delivery do not pass property unless the price is paid or security is given for the price, or credit is given without security.' Inst., 2, 1, 41. Sale and delivery do not pass property, unless the

(*b*) *Transfer of Rights in other ways.*

After contracts of sale and purchase come other modes of transfer of rights. The chief of these are assignment and gift. *Assignment.*—The legal definition of assignment furnishes evidence of a highly developed trade, since assignment was evidently intended to serve as a substitute

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vendee pays the price or gives the vendor security; for instance by a guarantor discharging the vendee or by mortgage. If however the sale is on credit, ownership immediately passes. By English Law, if the contract is for the sale of specific goods, ready for delivery, there is no distinction between the *jus in personam* and the *jus in rem*; the contract is complete and the property passes at one and the same moment. If the sale is on credit, property passes immediately upon the striking of the bargain or understanding as to terms, even before delivery of the goods. If the sale is for ready-money, there must be delivery or tender of the whole of the goods or price, or delivery and acceptance of part of the goods or price, before there is any contract, and at the same moment the property is transmitted from the vendor to the vendee. If the contract is not for the purchase of specific goods, but of goods of a certain nature or class, there arises a distinction between property and obligation; for though the contract is complete no property passes until the particular goods are ascertained by delivery. By the Code Napoleon delivery is requisite for the transfer of property in movables, but property in immovables is transferred as soon as the contract is complete. Poste's Gaius, pp. 391—392. Prof. Margoliouth has very kindly sent me the following note on this passage. "This is a translation of *Mukhtasar-al-Wikayah*, p. 118, where the Arabic word *Mithliyyun* is used. Von Kremer seems to me to have mistaken the sense. It is where the price is *Mithliy*, not where the article is *Mithliy*, that this is allowed. The reason is that it is only in case of *Mithliys* that the value is ascertained; *e.g.*, if I offer a pound for a coat I can transfer the bargain because a third party can pay the pound; its amount being accurately known. Whereas if I offer an old print for a coat, that bargain cannot be transferred, since the transferee will not possess the exact equivalent of my old print." Tr].

for Bills of Exchange. Abu Hanifah rendered no small service by giving legal validity to this oldest form of the Law of Exchange. According to him assignment is only permissible in case of debts or credits. It takes place by arrangement between the drawer (Muhil), payee (Muhtal) and drawee (Muhtal 'alaihi). In such a case the debtor (drawer) refers the creditor (payee) to a third party (drawee), from whom the payee collects a sum deposited with him. The creditor in such a case has no further rights against the original debtor (drawer), unless it happens that the drawee fails to discharge his obligation, or is hindered by death or bankruptcy from honouring the Bill. In such a case the payee has a right to demand payment from the drawer. The importance of these rules, for the trade of the times, is obvious. It is expressly observed, with regard to the above-mentioned case, that if the drawee bring an action against the drawer for the amount of the Bill, and the latter reply that the Bill is no greater than the amount which he had a right to demand, this reply cannot be entertained. If the drawer bring an action against the payee for the amount of the Bill, asserting that the purpose of the assignment was merely that the payee might collect the sum for the drawer and the payee denies this, the assertion of the drawer, confirmed by oath, will prevail.

It would appear, moreover, that this form of exchange (transference by assignment) cannot ordinarily be employed as between different towns, but only within the same town and its immediate neighbourhood. Cheques (*safatiy*), sent to distant places, whereby people try to avoid the danger attending the transmission of cash, are not forbidden but are regarded with disapproval by the jurists.

The second mode of transfer of rights was by *Gift.* A gift was effected by offer and acceptance, and became perfect in law by possession.* Gifts of properties liable to partition were not permissible, except when the donor owned the whole of the property, or partition had already been effected at the time of the gift. Gifts of indivisible objects were permissible to several persons in undivided and joint ownership. Revocation of gifts to strangers was allowable (Shafa'i disputes this,) if the donee had not offered a return (for the gift), or if one of the two parties had died, or the subject-matter of the gift had passed into the possession of a third person. It was not permitted, on the contrary, to revoke gifts made in favour of blood-relations or

* [The rule of early Germanic law, says Pollock, followed in England till the fifteenth or late fourteenth century, was that nothing short of actual delivery would pass property whether the transaction were gift, barter or sale. Tr.]

husband or wife.* But a gift to a stranger was irrevocable if he offered an object in return which the donor accepted. But cancellation of gifts by mutual agreement or judicial decision was perfectly valid. If a gift was made on condition that something should be given in return, such an agreement, according to Muslim jurists, belonged to the category of contracts of exchange or purchase, and was governed by the rules obtaining for them. A gift for life consisted in transferring something to some one on condition that it was to be re-transferred to the original owner on the death of the donee. Gift, in anticipation of death, consisted in promising to any one something in the event of the death of the owner. According to Abu Hanifah and Shaibani, this form of gift was invalid, but Abu Yusuff held otherwise. It was similarly forbidden under the Malekite system.

Warrant of Attorney (Wakalah) was a form of agreement very exhaustively dealt with by Arab jurists. The general rule was that for every contract which a person was capable of entering into, he could authorize another, by his warrant of attorney, to enter into it for him. In civil but not in criminal cases it was allowed to the parties to be represented by persons invested with power of attorney. Abu Hanifah

* According to Roman Law gifts between husband and wife were entirely forbidden.

strongly held the view, however, that in contested cases the appointment of a person invested with power of attorney could only be effected with the consent of the opposite party, unless the party so represented was prevented from appearing personally by illness or absence from the place where the courts were held (at a distance at least of three days' journey), and was therefore compelled to arrange for some one else to represent him. We now proceed to the exposition of other important legal rules, and will begin with those relating to partnership.

(c) *Contracts of Partnership.*

According to the Hanafite law partnership contracts were two-fold: (1) partnership of goods; (2) partnership of contracts (rights proceeding from them). A partnership of goods arose when two or more persons jointly acquired something; neither was empowered to dispose of the share of the other. Of the following kinds was the partnership of contracts: (1) the unlimited partnership (*Societas omnium bonorum, Shirkat-ul-Mufawadah*); the partners being looked upon as one unit. Such a partnership could only be concluded between at least two persons of free status, Muslim faith, and sound mind.* (2) limited partnership (*Shirkat-ul-Inam*). It did not involve mutual

* [Cf. Gaius, s. 148, s. 149. Tr.]

responsibility. Each partner, however, had full powers to act for the other without being his surety. Each could enter into the business with equal or unequal shares, and arrange for an equal or unequal share in profits or losses; (3) simple personal partnership consisted in two persons carrying on a business without a capital; having come to an agreement about the division of the profits. Partnership was dissolved by death, or by conversion to some other religion which, according to the Muslim Law, had the consequence of civil death.*

Sleeping partnership, or *Muzarebah*, consisted in one person supplying the capital and the other doing the work. Its essential condition was that the profits should be common, and that one should have no advantage over the other. Moreover, the capital had to be supplied in fact. The agreement might be limited to a certain period, or to a particular kind of business.

Agricultural law occupied the special attention of the Arab jurists. It is not surprising then that contracts relating to it were carefully discussed and defined.

Agricultural contracts (*Muzara'ah*). Very frequently, for the purpose of cultivating land, a man associated another with him. Such agreements were called 'Agricultural contracts.' Abu

* [Cf. Gaius, s. 153. Tr.]

Hanifah declared as illegal an arrangement by which one of the parties reserved to himself a third or fourth part of the harvest. Abu Yusuff and Shaibani, however, held such agreements good. It was usually arranged for one man to supply the land and the seeds, and the other to do the manual labour. The arrangement was held illegal by which one man was to supply the land and beasts of burden, and the other the seeds and manual labour. The law on this subject is minutely set out, and this fact offers the best proof of the importance which the Arabs justly attached to this kind of agreements. Gardening contracts (Musaqah) consisted in one person taking charge of orchards, vineyards and vegetable gardens for a share in the produce. According to Abu Yusuff and Shaibani, this kind of agreement was legal, but Abu Hanifah expressed himself against it. The reason is easy to see, and lies in the uncertainty of the harvest; for Abu Hanifah, with great consistency, has condemned all agreements in which the gain or the profit was uncertain, and where one party might get in return either too much or too little.

Of special importance for agricultural and landed properties was the law of pre-emption, which, in sale, allowed over others preference to a joint owner or a neighbour. It was not unknown to Roman Law (Preëmptio) and

was of great practical importance, inasmuch as it offered the possibility of consolidating different holdings in one hand. In this connection there was no difference between Muslims and non-Muslims. Disputes about the admissibility and exercise of this right were decided by the Kadhi.

(*d*) *Other Contracts.*

The contract of Letting and Hiring, according to Arab definition, is the contract by which use is obtained (of objects and goods) for a fixed sum of money, and it bears a remarkable similarity to Roman Law.*

This agreement was considered legal when its subject-matter was known, and the consideration was definite and certain. By virtue of this kind of contract, even lards might be let out for a definite period, or until the completion of a specific work. If one of the contracting parties died, the contract was dissolved; just as it was dissolved by the occurrence of some unforeseen event; for instance, when a man hired a stall to open a mercantile business, and he became insolvent, or otherwise lost his goods.

The contract of Pledge directly follows the contract of Letting and Hiring on account of its frequent occurrence in daily intercourse and commercial transactions. According to the

* [Gaius, s. 142, Poste's Ed. Tr.]

Hanafite law pledge is effected, by offer and acceptance, and is finally concluded, in the eye of the law, by the delivery of the security. As long as the pledgee has not taken delivery of the security, the pledgor is free to alter his mind. But as soon as the former takes possession of the security, the law fixes him with responsibility. Pledge is only permissible, for a guaranteed debt (Dain Madmum), where it serves as a security for the debt, less in value than the security. If the security is lost in the hands of the pledgee (the value of the property being the same as the debt), the debt is discharged. If the property was of a higher value, the pledgee is liable for the excess. In the opposite case the pledgee had the right to call for the difference. Pledge or mortgage of objects belonging to several persons was forbidden; so also (pledge or mortgage) of dates still on the trees without the trees, of the crops in the fields without the fields, of palms and fields without the crops. It was also illegal to pledge or mortgage trust-funds, or partnership assets. It is remarkable that in Abu Shuja', the oldest Shafa'ite jurist accessible to us, we find a definition of the contract of pledge literally corresponding with the Roman Law: *Quod emptionem venditionemque recipit, etiam pignerationem recipere potest* (L. 9 § 1. D. Pigner, 20, 1). The Arab definition is almost literally the same:

everything which was saleable might also be pledged.*

Such similarities to Roman Law may occasion us surprise, but I reserve for a later occasion a more exhaustive treatment of this subject. I shall proceed next to the Hanafite Law of Guardian and Trusteeship, which deserves a closer study.

(e) *Guardian and Trusteeship.*

The Arab jurists describe by a technical expression ('*Hajr*') what we call guardian and trusteeship, and this signifies a limitation of rights similar to what was meant by *capitis diminutio* in Roman Law. The appointment of a guardian might be necessary in one of three cases: (I) minority, (II) unfree status, (III) lunacy. Neither the minor without the permission of his legal representative, nor the slave without that of his master, could enter into a contract. Similar was the case with lunatics. If such a one did enter into a contract of purchase or sale, the guardian, might ratify if advantageous, or refuse ratification

* Abu Shuja': Leyde 1859, p. 20. (Gaius, p. 350. In a rare MS. in the Khuda Bukhsh Oriental Public Library, Bankipore, we have a most interesting discussion on this subject. Fol. 31 et seq. It is the Ahkam-ul-Qur'an of Jassas-Ar-Radhi. He was born in 302 A.H. (914 A.D.) and died on the 7th Dhu'l-hijja 370 (A.D. 981, 14th June). He taught the Hanafite law at Baghdad. This MS., unfortunately, is incomplete, and deals only with Suras Baqar, Al-Imran and Nisa. See also Sachau, Muhammedanisches Recht, pp. 323 et seq., Tr).

if otherwise. Similar rules obtained in Roman Law, where, in all transactions resulting in the diminution of the property of the minor, the consent of the guardian was necessary.* Lunatics and minors could neither legally enter into a contract nor make a valid admission, nor present a slave with freedom, and so on. If by such transactions losses were incurred, the responsibility rested with the guardian. Abu Hanifah says that the simpleton (Safih), in possession of his senses, has unlimited powers of disposal over his property. But a young man, who does not appear to be possessed of sufficient intelligence, is not to be put in possession of his properties until his twenty-fifth year. Here, once again, we have a remarkable coincidence with the Roman Law, which also fixed the twenty-fifth year as the termination of the *Cura Minorum.* Abu Hanifah and Shaibani, likewise, fix the twenty-fifth year as the termination of the *Cura Minorum*; but they add that in cases where, even after the attainment of the twenty-fifth year, the ward is not in a position to manage the property, his wardship is to continue uninterrupted. According to Abu Hanifah, Abu Yusuff and Shaibani, boys and girls attained majority (physically) in their fifteenth year, but full legal majority, as has been stated above, not till the twenty-fifth year.

* Puchta: Cursus der Institutionen, IV Part, Vol. III, § 300, p. 211.

In legal proceedings against a debtor, if the creditor applied for his arrest and for the appointment of a receiver of his goods, the Kadhi, according to Abu Hanifah, had to make the order of arrest as prayed for, and it remained in force until the debtor discharged his liabilities; but he might not make the order for the appointment of a receiver. Should the debtor, however, have any outstanding debts due to him, the Kadhi could apply these in satisfaction of his creditor's claims, without reference to him. Abu Yusuff and Shaibani, on the other hand, hold that the Judge, if asked by the creditors, is bound to make the order for the appointment of a receiver, in order to prevent the debtor from further interfering with his property; the result being that the debtor could no longer injure or prejudice the rights of his creditors. The property was to be divided *pro rata* by the Judge among the creditors. If the debtor stated that he possessed no property, the order for imprisonment was made separately for each individual debt. If the statement was found correct, he was to be set free, after an imprisonment of two or three months. Similar was the case when the debtor adduced proof that he possessed no property. But even after his discharge, the creditors could obtain from his earnings any sum that exceeded his actual necessities, and divide it *pro rata* among themselves. In this

respect also we find a remarkable similarity to Roman Law. The rule that imprisonment for debt was not to last longer than two or three months, reminds us of the sixty days' imprisonment of Roman Law.* The creditor had to depend entirely upon the good-offices of the debtor, being armed with no remedy under the law, unless he held a security. Precisely the same was the case in Arab Law, as is apparent from what has preceded.

(*f*) *The Marriage Law.*

We now proceed to a portion of the Muslim Law, namely, the Marriage Law, which is of great importance from the point of view of the history of their civilisation. A valid marriage could only be contracted in the presence of two witnesses of free status, full age, and Muslim faith. A Muslim, marrying a Christian woman or a Jewess might, according to Abu Hanifah and Abu Yusuff, have two Christian or Jewish witnesses. Shaibani, however, holds that only Muslims could be legal witnesses of marriage. Marriage was forbidden with mothers and paternal and maternal grandmothers, daughter and grand-daughter, sister and her descendants, maternal or paternal aunts,

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* Puchta: Cursus der Institutionen, IV Part, Vol. II, s. 179, p. 233.

nieces,* mother-in-law, step-daughter, wife of the father,† or the wife of the grand-father, daughter-in-law, foster-mother (wet-nurse), foster-sister. Moreover it was forbidden to marry two sisters at one and the same time, so also to have two female slaves, who were sisters, as concubines, at one and the same time. Further it was forbidden to marry at the same time a woman and also her paternal or maternal aunt, the daughter of her sister or of her brother. So also it was illegal to marry two women of whom, if one had been a man, he would have been prohibited from marrying the other. Similarly it was not permissible to marry a woman and her daughter by her first husband at one and the same time. A man committing adultery with a woman could neither marry her mother nor her daughter. If a man divorced his wife he could not marry her sister prior to the expiration of the *Iddat* of his former wife.‡ The master was not allowed to marry his slave; nor a free woman to take a slave as

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* Marriage between uncle and niece is considered even meritorious in the Talmudic law. Cf. Frankel: Das Mos. Talmud. Eherecht, Leipzig, 1860, p. XVIII.

† [See Robertson Smith. Kinship and Marriage, pp. 108-111. Tr.]

‡ The Iddat is the legally prescribed period during which neither the divorced wife nor the widow could contract a fresh marriage. In the former case the period was that of three months; in the latter four months and ten days. In case of pregnancy the 'Iddat,' terminates forty days after the child-birth. This rule is derived from the Talmudic marriage-law, where the widow or the divorced wife could only re-marry after 90 days.—Frankel, p. XXIII. [In Islam the

her husband.* It was permitted to marry women of other faith if they were *Ahl kitab*, but it was forbidden to marry women if fire-worshippers or idolators. On the other hand, it was permissible to marry Sabean women, if they believed in a prophet and acknowledged a book of revelation. If, however, they worshipped stars, and had no book of revelation, marriage with them was forbidden (Kuduri; Kitab-ul Nikah). Marriage of a woman—free and of full age and in full possession of her senses—could only be concluded with her consent and the approval of her legal representative. With marriage alliances came specially into prominence the doctrine of the equality of birth. If a

divorced wife could only re-marry after a period of three months during which it was to be seen whether she was pregnant or not. But in the Jahiliyyah even during the pregnancy she could marry another man to whom, as a rule, the child belonged. In Islam, moreover, the divorced wife could not, after once the divorce was complete, return to her husband without first marrying another man and obtaining a divorce from him. In heathen times the practice was laxer. Even after divorce the husband could without much difficulty take back his wife, and apparently without paying any dower. Murra-b-Waqi was astonished that that was no longer allowed in Islam, and upon his complaint received the order from Uthman or Muawiah that the law of God was to be preferred to his right. Upon divorce the dower was not paid: from this Robertson Smith contends that in spite of the divorce the husband (in the Jahiliyyah) must have retained some rights over his divorced wife. With the Jews the first husband had to give his consent when the divorced wife wanted to re-marry. Wellhausen, Die Ehe bei den Arabern, p. 453. See also Robertson Smith, Kinship and Marriage, p. 114 (1903). Tr.].

* This very prohibition exists in the Mosaic-Talmud marriage Law, Frankel, p. XXII.

woman married a man not of equal birth, it was open to her male relatives to annul the marriage. The equality of birth consisted in descent, religion and property. Abu Yusuff took also the profession of the bridegroom into consideration in determining the question of the equality of birth.*

The nearest relatives had to see that the principle of the equality of birth was not evaded or infringed, and that the woman obtained on her marriage a dower not smaller than, or incompatible with, her position. 10 Dirhams (10 francs) was the minimum dower. Male or female slaves could not marry without the consent of the master.† The conditions fixed by the wife at the time of the marriage were to be

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* [In exogamy a certain equality of the status of the couple was necessarily expected. The sameness of religion was called for by Islam. No heathen could have a Muslim woman as his wife, and *vice-versa* no Muslin a heathen woman. This was no new or unheard of demand; the feeling lying at the bottom of it existed in heathen days. The wife of Abbas B. Mirdas looked upon her marriage as dissolved when she heard that her husband had accepted Islam (Aghani, XIII, p. 65). Similarly, under pressure of her kinsmen the wife of Quis. b. Asim separated herself from her husband, to his and her grief, on his conversion to Islam (Aghani, XII, pp. 155 et seq). Wellhausen, Die Ehe bei dan Arabern, p. 438. It was a point of honour too, not to give away a woman in an unequal match; if you cannot find equal match says Kais-Ibn Zuhair to the Namir (Iqd, III, 273) the best marriage for them, is the grave. Robertson Smith, p. 97 (1903). See Zydan's Ummayyads and Abbasids in Prof. Margoliouth's Translation, p. 117 et seq. Tr.]

† (Goldziher, Muh. Studien, Vol. I, p. 130; Khuda Bukhsh, Politics in Islam.)

strictly observed; otherwise the dower reserved was to be delivered. For instance, if the bride made a stipulation that she should not be taken away from her native land to a foreign country, or that the husband should not take a second wife, and the stipulation was broken, the dower immediately fell due to the wife. Marriage between cousins could be effected without the interposition of relatives. Similarly a man could marry, without the intervention of the relatives, a woman of full age if she declared her willingness to become his wife. Such a marriage, concluded in presence of two witnesses, was legal. A Muslim was permitted to marry a Muslim, Christian or Jewish slave girl. But if he had already a wife of free status, he could not marry a female slave. There was no objection, however, to his taking another free woman as his wife. The slave was only permitted to have two wives. Dissolution of marriage for physical defects in the man could be claimed by the wife, subject to judicial proof; the wife being entitled to her full dower. As regards divorce, a very great freedom was allowed to the man. He could, whenever he liked, pronounce the formula of divorce, and declare the marriage dissolved. The wife, however, on her part, was entitled to her dower, if the marriage had been consummated. Otherwise the husband had only to discharge the legal quittance, consisting of three articles of clothing, *viz.*, a shirt, a veil, and

a cloak, to complete the dissolution of marriage. If the wife, on the other hand, claimed a divorce, she could only do so on the ground of physical defect in her husband, which the judge had to decide. If her cause was justly founded, she had a claim to full dower. If, however, she wanted a dissolution of marriage only on account of domestic disagreements, the dissolution could be secured either by making some compensation to the husband or foregoing her right to dower. If a man accused his wife of adultery, and confirmed his complaint before the judge with a *Lian-formula*, it was open to the woman either to confess her guilt or to vindicate herself by having recourse to the counter *Lian formula*. If she adopted the latter course, the judge pronounced definite, irreclaimable divorce. Only when the husband later on withdrew the charge, could he marry her a second time; but before doing that he had to submit to the legal punishment for a false complaint (Kuduri). The woman who was divorced, or who had lost her husband, if she was of full age and Muslim faith, had to mourn and abstain from the use of scent, toilette and dresses of gay colours (green or red). The mourning period for a free woman in the event of the husband's death was four months and ten days; for a female slave half the time. On divorce the *Iddat* period for a free woman was three months, and for a female slave half that period. The

husband had to provide for his wife, whether a Muslim or not, the necessary maintenance; *viz.*, food, clothing and other necessaries. Similarly was he bound to provide her with board and lodging during the *Iddat* period, in the event of a divorce. The right to maintenance was forfeited if the woman had occasioned the separation by her own perverse conduct. A well-to-do husband was bound to provide at least one servant for his wife, and assign a separate apartment to her, which could not be shared by anybody else without her consent. According to the Arab jurists the rules relating to foster-relatives form a portion of the marriage law. I have dealt with this subject elsewhere, and will have an opportunity of returning to it in the course of this work. Accordingly, I abstain here form entering into details, and now pass on to the law regarding slaves, which deserves special notice from the point of view of the history of civilisation.

(*g*) *Legal Status of Slaves.*

The manumission of a slave could only be effected by a Muslim of full age, in full possession of his senses and of free status. It was enough for the master of the slave (male or female) to express orally something indicating the grant of freedom. A slave who fled from an enemy's into Muslim country, and accepted Islam, became *ipso*

facto free. Moreover, the child of a female slave begotten by her master was free; so also the child of a free woman begotten by a slave. Valid was also that form of manumission where the master assured freedom to his slave in the event of his death (Tadbir). Such a slave could be no longer sold or given away. If a female slave gave birth to a child who was her master's, she could no longer be sold. It was only when the master acknowledged the child that his descent assumed legal validity. In the event of her master's death the slave-girl became free. A third form of manumission was when the slave made a contract with his master for his freedom, as against the payment of a fixed sum of money. By this agreement the slave was enabled to purchase his freedom. Such a slave could pursue his calling in order to secure the amount required. So long as he was not emancipated he could not marry without the consent of his master. If he could not raise the stipulated sum at the right time, he forfeited all claims to freedom. The children of slaves who had purchased freedom became also free. The male or female owner of a slave, to whom freedom had been accorded, continued to remain his patron; the heirs of the patron succeeding to the patron-rights.

We need scarcely draw special attention to the great similarity in the position of the

patron towards the client between Arab and Roman Law. In the absence of a legal heir, according to Arab law, there was a mutual right of succession between the patron and client. The Arabs are, therefore, fully justified in describing this relation as a permanent kinship (*servilis cognatio* of Roman Law). This mode of manumission completely accords with the Roman manumission. Even emancipation by will is precisely the same (*libertus orcinus*).*

As regards the emancipation of a slave belonging to one or more persons, numerous directions are to be found in Islamic Law. Abu Hanifah remarks on this subject that if a slave is owned by two persons, one of whom grants him freedom on his account, the co-sharer also could either grant him freedom, or claim compensation from the other owner, or compel the slave to work until he had acquired the means of purchasing the remaining share (Kuduri, p. 106). A comparison of the two laws—Roman and Muslim—relating to slavery, points to the far more humane spirit of the latter. The Arab Law regards the slave as a man; the Roman as a chattel. The intention of the law-giver to encourage as far as possible the emancipation of slaves, becomes abundantly clear by the declaration of manumission as a meritorious act:

* Emancipation by will exists also in the Rabbinical Law. Maimon, VI, 4, and Sechiya Umathana, IX, 11.

an element wanting in Roman Law. It was on this account that the religious law of Islam ordained the emancipation of slaves by way of penance; and this humane spirit has continued from the earliest to the latest times. Nowhere was the lot of the slaves happier than in Muslim countries.*

It was, indeed, an express provision of the Muslim law that, along with other purposes, the *sadakah* fund might be used for giving pecuniary help to slaves for obtaining their emancipation. According to Mawardi, from this fund slaves were even to be bought and set free (Mawardi, p. 431). Moreover, the Arab administrative law enjoined the Prefect of Police of every town to see that slaves were not overworked by their masters.†

To complete our sketch, there still remains to be discussed the law of Succession according to the school of Abu Hanifah.

(*h*) *The Law of Succession.*

The law of Succession, resting upon the definite ordinances of the Qur'an, supplemented by the *Sunnah* and the later juridical activity (Kiyas), has been worked out by Arab jurists into a highly elaborate system. But, on account

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* [Compare the observations of Loti in *The Disenchanted*. Tr.]

† Mawardi, ch. on Prefect of Police.

of its difficult application in practice, it has given rise to endless controversies, with which Muslim *savants* have filled thousands of volumes. Legal heirs of the male sex are: (1) The son. (2) The son's son and his descendants. (3) The father. (4) The father of the father and his ascendants. (5) The brother. (6) The son of the brother. (7) The paternal uncle. (9) The lawful spouse. (10) The patron.

Legal heirs of the female sex are: (1) The daughter. (2) The daughter of the son. (3) The mother. (4) The grandmother. (5) The sister. (6) The wife. (7) The patroness. Four classes of persons are excluded from succession: (1) The slave. (2) The murderer (from the inheritance of the person murdered by him). (3) The apostate. (4) The unbeliever.

The Qur'an has fixed shares of six kinds: (1) $\frac{1}{2}$, (2) $\frac{1}{4}$, (3) $\frac{1}{8}$, (4) $\frac{2}{3}$, (5) $\frac{1}{3}$, (6) $\frac{1}{6}$. The following have a claim to half of the inheritance: (1) The daughter. (2) The daughter of the son, when there is no daughter alive. (3) Sister on paternal and maternal side. (4) Paternal sister, when there is no paternal or maternal sister alive. (5) The surviving consort, when the deceased has left no child or child by son. To the $\frac{1}{4}$ of of the inheritance the following have a claim: (1) the surviving husband, when a direct descendant is alive. (2) the wife, when no direct descendant is alive.

To $\frac{1}{8}$, the surviving wife has a claim, when direct descendants are alive. To the $\frac{2}{3}$, every two or more persons of those who, if alone, would have been entitled to $\frac{1}{2}$, with the exception of the husband. To the $\frac{1}{3}$, the mother, when the deceased has left no direct descendant, or when he has not left two or more brothers and sisters. To the $\frac{1}{6}$, (1) every surviving ascendant of the first grade, when the children of the deceased are alive. (2) The mother, when brother and sisters of the deceased are alive, (3 and 4) The grandmother and grandfather, when children of the deceased are alive. (5) The daughter of the son, when the daughter of the deceased is alive. (6) The sister, on father's side, when a sister both on father's and mother's side of the deceased is alive. (7) The children of the mother (from another father); also step-sisters.

The mother inherits to the exclusion of the grandmother ; the father to the exclusion of the grandfather; brother and sister to the exclusion of step-brother and step-sister. When the daughters claim two-thirds of the estate, the son's daughters have no right to inherit, unless there be an *asabah* * in the person of a son's son

* By the expression *asabah* is meant every male member between whom and the deceased leaving the inheritance an unbroken relationship exists through the male side without the interposition of a female. Querry's *Droit Musulman*, Paris, 1872, p. 673, en ce cas par le terme açabah les parents paternels, tous les parents.

through whom his sister get a claim. In order of priority in the *asabah* the sons come first, then their sons, then the father, then the grandfather, then sons of the grandfather (*i.e.*, uncles), then their sons of the great grandfather. Among the sons (*i.e.*, brothers, uncles, etc., etc.) those have priority who are of the same father and

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[*Note on the word* '*Asabah.*' There are two definitions of this word, one of which gives its connotation, the other its denotation. The former given in the treatise called Al-Nahr Al-Faid (Arabic and German, Leipzig 1891) is as follows: "Such persons as have no definite share assigned them by Law, yet inherit what remains when those who have such shares have received them." The latter, given by the Shafa lawyers is "any male between whom and the deceased there is no female? In the case that Von Kremer quotes the granddaughter inherits in virtue of her brother, by the principle that the female of the same degree gets half what the male gets. The divisions of the *Asabah* '*Asabah*' are the '*Asabah bi nafsihi*,' *i.e.*, the males mentioned: the '*Asabah bi ghairihi*,' *i.e.*, the daughter, son's daughter, sister on both sides or on the father's side who inherit on the principle quoted in virtue of their brothers: and the '*Asabah ma ghairibi*,' *i.e.*, sisters who inherit together with daughters or son's daughters, taking what is left when these have received their shares.

There are, says Ramsay in his *Mohammedan Law of Inheritance*, p. 24, *et seq.*, two general rules of exclusion laid down in the Serajiyyah. The first is that whoever is related to the deceased through any person shall not inherit while that person is living. Thus, for instance, a true grandfather is excluded, both as sharer and as residuary, by the father; a brother, sister, c. brother or c. sister, is also excluded by the father; a son's son or son's daughter is excluded by the intermediate son. To this rule there are, however, these important exceptions, that brothers, sisters, u. brothers and u. sisters are not excluded by the mother. The second of those rules is that the "nearest of the blood must take" and by "nearest of blood" is meant a relation of the whole blood, as distinguished from a relation by the father only. In Ibn Hazm's Jamharat-un-Nasab, Bankipore MS. F. 106 there is an interesting passage which runs thus: "And of the Bani Bakr was 'Amir-b-Jashm, bin Hubaib,

mother, then comes the son (of the same), then the grandson : brothers share their inheritance with sisters, on the principle that each male has twice a female's share: of more distant relatives the male inherit to the exclusion of the female. If there are no relatives of the same tribe, the

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bin Kab, bin Ushkur and this 'Amir was surnamed Dhul Majasid (see Ibn Duraid, p. 206) *and he was the first to give males shares double those of females*. On this point I might also refer to the Ras' Malin Nadim of Abul Abbas Ahmed Ibn Ali, a unique MS. in the Bankipore Library, F. S B. We are not told who this 'Amir was ; but from this passage it is quite clear that the rule of giving a double share to males was not unknown in Arabia, prior to Islam. We do not know, however, when or how the rule came into existence, nor are we in a position to ascertain whether it ever had wide acceptance. On p. 117 of *Kinship and Marriage*, Prof. Robertson Smith (2nd Ed.) says : At Medina, as we are told by commentators on sura 4, women could not inherit. So far as the widow of the deceased is concerned, this is almost self-evident ; she could not inherit because she was herself—not indeed absolutely but quâ wife—part of her husband's estate, whose freedom and hand were at the disposal of the heir, if he chose to claim them, while if he did not do so, she was remitted to her people. But, further, there is an explicit statement confirmed by the words of the sura (verse 126), that the men of Medina protested against the new rule introduced by the Prophet, which gave a share of inheritance to a sister or a daughter. On the same subject Prof. Wellhaüsen in his 'Die Ehe bei den Arabern,' says (p. 467) : Prior to Islam we have very little information about women's right to inheritance or possession of property ; but it is certain that there were women who had property of their own (camels) which they made over to their husbands. An ancient divorce formula is handed down to us in which the man says to his wife ; "Be gone, for I will no longer drive thy flocks to the pasture."............Ramla had a house in Medina in heathen days, which was used, later on, by the Prophet as his place of refuge. Khadija had a commercial business. We have the instance of a daughter inheriting property in Nauwar. She lived, indeed, after Islam, but prior to the settlement of the Islamic law of inheritance. Tr.]

right to the estate falls to the *Asabah* of the patron: failing him to those of the client.

The murderer could not inherit the property of the murdered; nor could a Muslim inherit from an infidel. Infidels might inherit property from each other. The property of the apostate was divided among his heirs.*

If the deceased left no *Asabah* or *Dhusahm*, the following ten relatives came in for their share: (1) the son of the daughter, (2) the son of the sister, (3) the daughter of the brother, (4) the daughter of paternal uncle, (5) the maternal uncle, (6) the maternal aunt, (7) the father of the mother, (8) the paternal uncle of the mother, (9) the paternal aunt, (10) the son of the brother of the mother. Then follow the more distant relatives.

If the descendants of the father of the person leaving the inheritance stand in direct line, the inheritor is he who stands nearest to the male heir entitled to inheritance; the rule being that the nearer are more entitled (to inheritance) than the remoter relatives. Thus the father of the mother (of the person leaving property) is more entitled than the son of the brother or sister. The patron (as regards the inheritance of his client) is more entitled as residuary than the remote relations, if there are no *Asabah* besides them. The client could inherit from his

* Lapse from Islam meant civil death.

patron. If the client predeceases the patron, the father and the son of the client inherit the patron's property. Abu Yusuff held that, in the case stated above, $\frac{1}{6}$ would go to the father, and the remainder to the son.* In concluding our observations on the law of inheritance we desire to add that it was the supreme achievement of Islam in the legal sphere. Though it cannot be concealed that in the course of its growth it drew upon and assimilated the principles of the old Semitic Law (as existing in the Mosaic Law and later on developed in the Talmud), it was,

* Further information will be found in the Hedayah and the Droit Musulman of Query II, p. 236. The Shiite law agrees in the main with the Sunni Law.

[The rules according to which, under Muslim Law, residuary or agnatic heirs are preferred one before another, have been concisely expressed by an Arab writer in a verse which may be translated :

Class must in first place be preferred ;

Degree comes next and blood is third."

These terms "class," "degree" and "blood" require some explana-tion "class" agnates are divided into six classes, *viz.* :—(1) descendants through males, son, grandson, great grandson, etc., etc., (2) the father, (3) the grandfather and the brothers, (4) the nephew, brother's sons, (5) the uncles. (6) the patron.

Degree means the degree of relationship in which the heir stands to the deceased as ascertained by the number of removes, *e.g.*, the son and the father are in the first degree, there being no intermediary between them and the deceased, the grandson, the grandfather and the brother are in the second degree, one intermediary is involved in each case, the great grandson and the nephew are in the third, etc., etc.

Blood means that the heir is either of the full blood or the half blood, the former being preferred to the latter, *e.g.*, brother german will exclude a brother consanguinean ; the brother uterine not being an '*Asabah*' is not in question. Tr.]

on the whole, an original creation, and points to a distinct advance upon the earlier Mosaic and Talmudic law. Nevertheless, Mohamed alone deserves credit for settling the principal outline of the Muslim law of inheritance. He fixed the legal shares, not forgetting the rights of women, who, in Arab antiquity, were completely ignored. Under the consecration of divine revelation were announced by the Prophet those rules which were subsequently developed with the aid of the *Sunnah.* Early, it is true, did Malik, in his *Corpus juris,* collect the traditions (acknowledged as authentic by him) regarding the law of inheritance. At the same time, many gaps remained to be filled up. With the assistance of the juristic speculation (Kiyas), called into being by Abu Hanifah, the law of inheritance was completed and built into an immense system—severely logical and carefully considered—which is still in force in all Muslim countries ; even where European government exists, as in Algiers and Caucasus, Turkistan, India and Java. While earlier we have repeatedly drawn attention to the similarity and resemblance between Roman and Muslim Laws, we find no such points of resemblance in the Law of inheritance. Resting exclusively on the Semitic basis, it is quite independent of foreign influence. In the rise and growth of the Muslim Law of inheritance, accordingly, the Hebrew and the Arab

legislation—going back to one common Semitic source—have worked alone and co-operated.

Have the other principles of Arab jurisprudence, which bear so striking a resemblance to those of the Roman system, come into being in consequence of silent and unconscious influence, or have the Arabs deliberately used Roman Law as the ground-work of their legislation? These questions we shall closely discuss in the following section which deals with the sources of Arab Law.

6. The Sources of Muslim Law.

Among the rules of Arab Law which suggest comparison with those of the Romans, one of the most striking is the rule which fixes the termination of the *cura minorum* at the 25th year. The period otherwise fixed in Muslim Law for majority is the 15th year, and there was very little reason for departing from that custom, as the development of the two sexes is much quicker in the East than in the West. The fixing of the 25th year as the period of the full legal majority is thus devoid of any plausible reason which might exist in northern climates where the development is much slower. It is therefore very probable that this rule was directly borrowed by the Arabs from a foreign system. In the Roman

Law the *cura minorum* terminated at the 25th year, and we cannot but conclude that this rule was borrowed from it.* The question now to be considered is, how was this effected? Did the founders of Muslim Jurisprudence, perchance, draw upon the Pandects, or the Basilika, or other Roman-Byzantine judicial work? In support of the contention that they did, it has been urged that in the sixth century, in Beyrut and Alexandria, there were famous schools of law, of which the former probably survived up to the first half of the seventh century. It might be supposed that here the Arabs acquired some knowledge of the Roman system. But it would be a complete misconception of the spirit of earliest Islam to believe that the Arab jurists and theologians would stoop either to study the books of the infidels or go to their schools for purposes of instruction. For them there was only one book—the Qur'an—all others appeared to them superfluous, and, if they came from infidels, thoroughly objectionable. In quite a different way did the Arabs come by the knowledge of Roman Law. It had been for centuries naturalised in Syria, Palestine and Egypt, and it so affected all the conditions of

* We cannot imagine that this was borrowed from the Rabbinical law. It is only necessary to mention that guardianship was quite unknown to the Mosaic Law, and was taken by the Hebrews from the Romans. They did not even possess a word to express guardianship, and had therefore to adopt the Greek word to convey the idea.

life that in spite of all the obstinate judicial exclusiveness it left its impress even on the Talmud.*

Owing to constant commercial intercourse between Arabia and the bordering Roman provinces, possibly even before Mohamed, many rules of Roman Law had made their way in the commercial towns of northern Arabia. I believe that to this intercourse with the Romans is to be attributed the origin of a large portion of the section relating to purchase and sale in Malik's collection of the Common Law of Medina. On the conquest of Syria and Palestine the Muslims daily saw the native tribunal, in conquered countries, administering justice according to the Roman-Greek Law; for the Arabs, in their first conquests, were conspicuous by a very wise tolerance. To the inhabitants of those towns which had submitted in consequence of a capitulation (as against the payment of a fixed tribute) they conceded the most perfect freedom in their affairs, their religion, and their judicature. All old institutions and legal systems were left

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* *Cf.* Van Den Berg: De contractu, do ut des. Leyden, 1868, p. 18 note. The theory of will, completely absent in the old Mosaic Law, is found in a tolerably developed stage in the Mishnah. The word for will is the unaltered Greek word which clearly indicates the source it came from. *Cf.* Saalschütz: Das mosaiche Recht, second part, vol. II, p. 827. The contracts of lease and hiring and purchase were unknown to the Mosaic Law until the Roman domination, when for the first time they were discussed in the Talmud. Van Den Berg, p. 10.

untouched, and it was only in disputes where a Muslim was concerned, or in cases between Muslims, that the *Kadhi* decided. Disputes between non-Muslims were decided, after, as before, the conquest, in accordance with the old undisturbed law of the land, by their own judges, or the heads of the community, or the spiritual chiefs (Bishops or Prelates), as is partially the case to this day in Turkey.* The Arabs derived their knowledge of Roman Law through daily contact and constant intercourse with the conquered Syrians, as well as through Jewish sources.

Many rules of Roman Law, specially those relating to guardianship and will, and so on, exercised a more or less powerful influence upon the later Judaic—the so-called Rabbinical—law, leaving behind very clear traces upon it. In the rise of Islam the contributions of the Judæo-Rabbinical literature have been considerable. Mohamed himself was, to a certain extent, familiar with the contents of the Judaic books, and Abdullah ibn Abbas—one of the chief founders of the Hadith School—was deeply read in Judaic literature.

In a two-fold manner, indeed, did the Arabs acquire knowledge of those foreign ideas

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* For the first time, under the governorship of Hafs ibn Walid, (124-26 A. D. ; 741-744 A. D.), was the Muslim Law of inheritance declared legally binding upon Christians. Ibn Taghribardi, p. 326. This innovation, however, did not remain long in force.

which we discover and detect in Muslim law: either by daily intercourse with subject nations, whence discussions on questions of spiritual and temporal laws could not have been altogether absent; or through the medium of the Rabbinical literature. As to the former source, we would draw attention to the two jurists—Auza'i and Shafa'i—who were both born in Syria and had, doubtless, there become familiar with many of the Roman-Byzantine rules of law, surviving in the shape of customary laws. To these jurists, indeed, we must ascribe those general maxims which have been taken from the Roman, and bodily incorporated into the Muslim, law; for instance, the maxim that proof lies upon the plaintiff (Al Isbat ul Mudda'i); the passage quoted above on the law of pledge; or the maxim, *confessus pro judicata,* which is expressed in the Arab system by *Iqrar* (legal confession). On commercial laws such Roman influences were most decisive, and this fact offers additional proof of the soundness of the conjecture hazarded above, that apart from books and Jewish media the Arabs gradually, and in a certain measure unconsciously, absorbed and assimilated by contact with the people among whom the Roman-Byzantine law obtained, many of its leading principles. We cannot, however, definitely decide whether the importations from Roman law were effected in this or some other way.

That they were importations is nevertheless beyond doubt. For instance, the question whether sale of a foreign thing is valid or not, has been borrowed from the Roman by the Arab law; for, according to the old Semitic conception, such a sale was out-and-out illegal. The same is the case with the juristic distinction between sale and exchange; for such a distinction was quite foreign to the old Semitic law, which judged all contracts 'do ut des' by one and the same rule. This fine distinction is clearly the result of the contact of the Arab with Roman civilisation. Doubtful, however, is the process through which this absorption took place. The rules relating to letting and hiring (locatio et conductio) (in the Arab law the very same rules obtained as in the Roman system), may safely be declared importations through Jewish books. Quite different, however, was the case with the laws of marriage and inheritance. Both these rested upon the old Semitic basis, and were worked out partly by Mohamed himself, and partly by his successors, in a wholly independent manner; and a comparison with the same institutions of Judaism point to a very decided advance. Before Mohamed there were, on these subjects, no legal rules, but only traditional customs and popular usage. According to the old Arab custom, marriage was effected in a very simple way. The suitor applied to the father or the nearest male relative of the girl, and as soon

as consent was obtained, the marriage was looked upon as completed.* This was generally followed by a wedding festivity.

It appears to have been a uniform custom for the bride to receive a dower (Mahr), which evidently was a very ancient Semitic practice, as is proved by the identity of the Hebrew *Mohar* with the Arabic Mahr. It is not to be doubted, indeed, that the consent of the father or other relatives was frequently purchased by presents; but it would be an error to suppose that there was an out-and-out sale of the bride. Such a state of affairs would stand in most flagrant conflict with the high position which the free-woman occupied in Arab antiquity and in the

* [Until Islam marriage by capture was very much in vogue. It scarcely deserved the name of marriage, as it was concluded without a *Vali* or a *Mahr*. The captive had no connexion with her kinsmen and her children did not recognize their maternal relations. See Wellhausen, Die Ehe bei Den Arabern, pp. 435-6. Instances of marriage by capture, says Robertson Smith, might be accumulated to an indefinite extent from history and tradition. At the time of Mohamed the practice was universal.................. Very commonly these captives at once became the wives or the mistresses of their captors—a practice which Mohamed expressly recognised, though he sought to modify some of its more offensive features (Ibn Hisham, p. 759).........................A distinction, it would seem, was made between the sons of a foreign woman and those of a *horra* freeborn tribeswoman. According to Ibn Abd Rabbih (Iqd, III. 296) the *hajin*, that is, the son of an *Ajamiya* or non-Arab woman, did not inherit in the times of ignorance; but there was no such disability as regards the son of a captive, nay, according to Arab tradition (Iqd, III. 290), the best and stoutest sons are born of reluctant wives. Robertson Smith, *Kinship and Marriage*, pp. 89 and 90. Tr.]

first centuries of Islam. Even before Mohamed, custom had placed certain limitations upon marriage within a certain degree of relationship. It was forbidden, for instance, to marry a woman and her daughter at the same time. Similarly, two sisters could not be married at the same time. Marriage with the wife of the deceased father was condemned (by public opinion), though not forbidden.

Various Arab tribes had attained various degree of civilisation. Some, even in antiquity, had secured a very high level of culture, *e.g.*, the Sabeans and the Himyarites; others, on the contrary, lived in primitive simplicity. Such was the case with the nomad tribes; while, in the towns of both southern and northern Arabia, the population possessed, on an average, a fairly advanced civilisation. In such circumstances the ceremonies and the sanctity of marriage largely varied, according to the status of the different tribes. Dower was common alike to the Arabs and the Hebrews—pointing to a Semitic rule of remotest antiquity. Community of goods did not exist between husband and wife. The wife could have her own property. There was a form of marriage (scarcely deserving that name), not rare before Mohamed, which the Arabs called *nikah ul mutah*. This union was concluded for a definite period, in consideration of a fixed sum payable to the woman. Mohamed

abolished this lax practice. Orthodox Islam has severely and scrupulously maintained the prohibition ; while the Shi'ite system has sanctioned its use.*

There was no precise rule as regards the number of wives, or the forbidden degree of relationship. Mohamed, for the first time, settled these, fixing the number of legitimate wives at four, and stating the forbidden degree of relationship, for which he put the Mosaic law into requisition ; but, as regards divorce, he departed from the Mosaic system, inasmuch as he permitted re-marriage in case of a double divorce after the

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* [The *mutah* marriage was a purely personal contract, founded on consent between a man and a woman, without any intervention on the part of the woman's kin. From the cases cited in the Hadith, Nawawi concludes that no witnesses were necessary to the contract, and that no Vali (father and guardian of the woman) appeared. And that this is a correct view of the case is proved by Aghani, VII, 18 where, with reference to an actual case in the life of the Himyarite Sayyid, *mutah* marriage is said to be a marriage that no one need know anything about. Now, the fact that there was no contract with the woman's kin —such as was necessary when the wife left her own people and came under the authority of her husband—and that, indeed, her kin need know nothing about it, can have only one explanation : in *mutah* marriage the woman did not leave her kin, her people gave up no rights which they had over her, and the children of the marriage did not belong to the husband. *Mutah* marriage, in short, is simply the last remains of that type of marriage which corresponds to a law of mother kinship, and Islam condemns it, and makes it the sister of harlotry, because it does not give the husband a legitimate offspring, *i.e.*, an offspring that is reckoned to his own tribe, and has rights of inheritance with it. And so, in fact, Nawawi says, no right of inheritance flows from a *mutah* marriage. Robertson Smith, *Kinship and Marriage*, pp. 84-85. Tr.]

performance of a religious penance and atonement; while the Mosaic law prohibited, in most severe terms, re-marriage with a divorced wife. Even after triple divorce, re-marriage could take place in Islam; only the wife had first to be married to a third person and then be divorced by him. The object of this rule cannot be mistaken. It aimed at preventing too frequent divorces. Mohamed's measures, in spite of the light view he took of a divorce, were a great moral advance, compared with the loose marriage ties of Arab heathenism. It cannot, indeed, be denied that in this sphere the legislation of the Arabian Prophet bore a distinctly humane stamp, and placed the legal position of women on a firm and sound basis. This is obvious from the rule ordering maintenance to a divorced wife, the payment of the dower, and the making over to her of presents made to her prior to the divorce, etc., etc. The Law of Inheritance, to which we now pass on, like the Law of Marriage, bears on the face of it its Semitic origin, and shows, in a much higher degree, the stamp of its own independent development. At the time of Mohamed, women were completely excluded from inheritance; even the mother and the daughter of the deceased forming no exception to the rule.* In default of

* According to the Mosaic law daughters also, as a rule, were excluded from inheritance. It was only when there were no sons that the daughters came in for paternal inheritance. Cf. 4, Mos. 27, 8-11.

son or brother or father, the brother's sons, *i.e.*, nephews of the deceased, inherited (Sura. 4: 8. Baidhawi). Gradually, indeed, did Mohamed repeal all these old customs, and lay down fresh ones, which considerably improved the status of women, and secured for them legal recognition. But, he had to yield to the old Semitic conception to this extent, that he assigned to the male heirs shares double those of the females. The testamentary power is another important feature of the Muslim law of inheritance. It improved the defective law of wills, found in the Rabbinical system, and in a large measure created its own rules.

But it is undoubted that just as the Rabbinical law acquired its knowledge of wills from Roman legislation, so also did Islam, from the very same source through Jewish channels. The Quran emphasises the sanctity and binding force of bequests (Sura 2: 176). We might further add that the institution of guardianship for minors passed from the Roman into the Islamic Law through Jewish sources; as also the tender care of orphans and minors: one of the most charming features of the Islamic legislation (Sura 4: 5, 6).

Most difficult, indeed, is the subject of the criminal law, as also the task of discriminating between the elements which are of genuine Semitic origin, and those which are of foreign

Importation. Its fundamental basis is evidently the antique Semitic customary laws found in the Bible :—but the Arab law offers distinctive peculiarities. Common to all the Semites and other nations of antiquity was the *Lex Talionis*.* The Quran expressly appeals to the Mosaic Law (Sura 5 : 49). The harsh and unbending *Lex Talionis*, however, was considerably softened down with the introduction of the blood-money payable to the nearest relatives of the victim. It scarcely admits of a doubt that the scale of blood-money, with which we have already acquainted ourselves, was very early, set down in writing, probably before Mohamed; so that, presuming it to be generally known, he did not consider it necessary to record it in detail in the Quran. Considered as a whole, the Arab was much milder than the old Hebrew penal law, which forbade the acceptance of blood-money in case of a murderer.† In other cases it allowed it; but the scale of blood-money for individual offences was not definitely and precisely fixed among the Hebrews. It is undoubted that long before Mohamed the scale of blood-money was, in the

* The substitution of blood-money for blood-revenge was common both to the Greeks and the Romans, and that, indeed, at a time when the separation of the two peoples had not taken place; though with growing civilisation the weakening and softening of the severity of the old Lex Talionis must have resulted by itself. Cf. Ausland, 1873, p. 510.

† 4 Mos. 35, 31.

main, settled in Arabia; for we know from old Arab traditions and poems that even before the Prophet, the blood-money for a man consisted of 100 camels.* In still earlier times 10 camels sufficed. It apparently varied according to various tribes and the value of the camel. In some cases even dates were accepted.† It was always, however, considered low and dishonourable to accept money and to cravenly renounce revenge for gold and property, instead of boldly and manfully exercising the right of blood-revenge. To protect themselves against this reproach, they took refuge in casting lots with arrows. They shot an arrow at the sky, and if it fell unstained, as it always did, when they wanted it so, it was regarded as a decision for the acceptance of blood-money. If, however, it fell smeared with blood it was regarded as a sign that blood-revenge should be carried out.‡ It cannot be doubted that here, as elsewhere, the Arab law shows a more humane tendency than the Hebrew law.§ True, the later lawyers softened down the severity of the old Mosaic Law, and would not permit recourse to Lex Talionis for bodily injuries, the offender paying a fixed sum as compensation. If he failed to pay the amount, he was sold as a slave.

* Hamasah, p. 450.

† *Ibid*, p. 389-

‡ Freytag: Einleitung in Das Studium d. Arab-Sprache, p. 193.

§ Freytag comes to the same conclusion, p. 190, *ibid.*

Mohamed sought as far as possible to place limitations upon, if he could not altogether abolish, blood-revenge; for it was intimately connected with the life and thought of the people. He announced the brotherhood of all Muslims; thereby intending to establish among all the members of the religious community eternal peace and concord, so as gradually to succeed in putting an end to blood-revenge. In anticipation of his approaching death, he spoke in the same strain in his last sermon to the assembled people at Mekka: "after my death beware of becoming heathens again, and of killing each other."* The mode of punishment, to a great extent, was the same as that prescribed by the Hebrew law. The punishment of stoning for adultery, for instance, was borrowed from the Jews. But even here the Arab practice was very much milder. Only after his own free and thrice repeated confession was the stoning to be performed, and the offender, saving himself by flight, was not to be obstructed or interfered with. Severe, indeed, is the Muslim Law of Theft. For the first offence the right hand of the thief was to be cut off; for a repetition of it the left foot. This might have been borrowed from the Persians, who before

* Cf. Bukhari (2235); Kitabul Maghazi No. 78 (3591); Kitabul Hudud No. 9 (3631); Kitabul Diyyat No. 2 (3750); Kitabul Fitan No. 8 (3893). The tradition is reproduced in each of the chapters cited, with some slight variation. This proves the importance attached early to this tradition.

Mohamed ruled a great portion of Arabia, where they introduced their cruel system of punishment.*

In theory the punishment of imprisonment seems to have been absent both from the Arab and the Mosaic laws; but in practice it was only too frequent, and among the Abbasids it assumed very cruel forms. Only for debtors did the Arab law allow imprisonment, and apparently here also the source was the Roman-Byzantine legislation; for the entire proceedings in bankruptcy are borrowed from there. On the contrary, banishment as punishment was frequent. Omar I banished to Syria those who had incurred his displeasure; but when this province became the seat of government they selected the island of Dahlak in the Red Sea as the place of banishment, specially for political offenders. Corporal punishment consisted of whipping, as in the Hebrew law: the maximum being fixed at 40 stripes. The Arab Law adopted the same figure, though in certain cases this number was doubled. The law of earliest Islam did not sanction sentence of death, except in cases of adultery, or slander of the Prophet or rebellion against him, or conversion from Islam to another religion, or murder.†

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* Sura 5, 37; 7, 121; 20, 74; 26, 49. Also Ewald Die Alterthümer d. Volkes Israel, IV part, p. 221.

† Cf. Sura 5: 37 where for more serious offences the punishment of death or crucifixion or mutilation of hand and foot is mentioned. [In

Very free, on the other hand, was the Hebrew law with the punishment of death, which was carried out in various ways: stoning, burning, execution with sword, throttling etc. For the offence of adultery, alone, did Islam sanction stoning. In the earliest times the current mode of execution was with the sword, and in more serious cases the body was fastened to the cross, or even burnt.* Mutilation, or agonising death, was always very severely forbidden, although with the decay of the empire, punishments assumed more and more barbarous forms.† Crucifixion was very frequent in later times: but it did not always amount to a sentence of death. The offender was tied to the cross, and was left in that posture for a period not exceeding three days; food and drink being allowed to him (Fihrist, p. 190). It was, moreover, usual to place the offender in the pillory, and crop his hair and beard. The later Hebrew law has also put limitations

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Ras' Malin Nadim of Abul Abbas Ahmed ibn Ali a list is given of the Arab chiefs who were crucified. It appears even in the early days of Islam to have been a frequent form of punishment. Bankipore MS. Fol. 25 B. Tr.]

* Mawardi, p. 105.

† [For curious forms of punishment see Prof. Margoliouth's translation of Zydan's Islamic Civilization, p. 112. See Fakhri, p. 198, for the punishment inflicted upon Abdul ibn Ali, uncle of Mansur; p. 193 for the punishment inflicted on Mohamed-ibn-Ibrahim of the Alavis. See De Goeje, Frag. Hist. Arab., p. 184, for the punishment inflicted on Sa'id ibn Amr'al Harashi by Omar ibn Hubaira; see also De Goeje, p. 90, p. 88, pp. 103-4, for some curious instances of Hisham's governor's cruelty; see also p. 117. Tr.]

on the punishment of death, so extensively made use of by the Mosaic law, and effected changes in corporal punishments (Saalschütz, p. 470 Vol, II). We have said enough, we trust, to show the intimate relation of the Islamic with that of the Hebrew penal law, and have shown the various decisive influences on the origin and growth of the Muslim theory of punishment. The Commercial Law shows unmistakeable traces of the Roman-Byzantine law.*

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* [Notes *drawn from Dr. Goldziher's paper* " *The Principles of Law in Islam.* Dr. Goldziher thinks that the first impulse towards creation of a Mohamedan system of law was given by contact with two great spheres of civilization—the Romaic and the Persian—the former in Syria and the latter in Mesopotamia. He holds that even if we had no other positive data to go by, the very name given to jurisprudence in Islam from the beginning attests the influence of Roman Law. " It is called *Al Fikh*, reasonableness ; and those who pursue the study of it are designated *Fukaha* (singular *Fakah*). These terms, which, as we cannot fail to see, are Arabic translations of the Roman (*Juris*) *prudentia*, and *prudentes*, would be a clear indication of one of the chief sources of Islamic jurisprudence, even if we had no positive data to prove that this influence extended both to questions of the principle of legal deduction and to particular legal provisions." Besides the positive rules of law drawn from Roman sources to meet new social and economic conditions in conquered countries Dr. Goldziher considers that the profoundest influence of Roman Law is to be seen in the system of legal deduction in Islam. He says : But even apart from the adoption of legal standards, Roman Law exercised a notable influence upon the legal thought of the new intruders into a country whose jurists had been trained in the scientific jurisprudence of the school of Berytus. The influence exercised by the Roman legal methods on the system of legal deducton in Islam is a more important factor in the history of Muslim Civilization than even the direct adoption of particular points of law. By what systematic rules or devices can deductions be drawn from positive laws, written or

The Criminal Law, though based essentially on the old Semitic foundation—common alike to the Hebrews and the Arab—has been

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traditional, which shall apply to newly arising cases at law and to the decision of legal questions for which the positive law provides no answer? In dealing with this juridical problem the Arab *Fukaha* took their stand entirely upon the instruction they had gained from circles familiar with the work of Rome in the domain of law. The dualism of written law (Arabic *Nazz*) and unwritten law is a mere reflection of the dualism of *Leges Scriptæ* (chakhamin) and *Leges non-Scriptæ*. Just so, about half a century before, the Jewish jurists (a word which in its legal application is likewise a translation of the Roman term *jurisprudentes*) had been moved by their intercourse with the Romans to make the hitherto unrecognized distinction between the *tora she-bitche theb* or written law, and the *tora she-be'al-peh* or oral law. The application of principles and rules borrowed from the methodology of Roman jurisprudence first made it possible to extend the limited legal material supplied by the Qur'an and the old decisions which were accepted as the basis of the law, to the other departments of juridical activity, of which these authorities had had no prevision. The *ratio legis* (*illa*), the principle of presumption, was applied to analogies (*Kyas*) to the *opinio prudentium* in legal deduction, so the Islamite *prudentes* assumed the prerogative of an authoritative subjective *opinio*; for *ra'y*, as it is called in Arabic, is a literal translation of the Latin term. Of all these principles (which are not exhausted by the examples just cited) none more strikingly demonstrates the profound influence of Roman Law on the development of legal opinion in Islam, than that which is known in Arabic as *maclaha* or *istilah*, *i.e.*, the public weal and regard for the same. The significance of this principle lies in the license it grants to the interpreter of the law to apply the legal standard in the manner best fitted to serve the public weal and interests. Here we recognize the Roman standard of the *utilitas publica*, which gives the interpreter of the law the right, by interpretation, on application, to wrest a plain and unambiguous law into something quite different from its original meaning, in the interests of the public weal."

Dr. Goldziher considers the influence of Persia upon Islamic jurisprudence as equally profound. The Mohamedan occupation of Iraq, he says, is one of the most telling factors in the religious and juridical

considerably toned down by the Arabs.* The Law of Marriage and Inheritance, on the contrary, in spite of the fact that the Hebrews and the Arabs are supposed to belong to the same family of nations, and possessed old common Semitic institutions, are essentially the original product of Islam. The Muslim Law of Inheritance is bolder in its outline, more definite in its assignment of shares, more considerate to the other

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development of Islam. Persian theologians carried their inherited views into the new religion they had adopted, the conquering power enriched the poverty of its own religious store in the elements supplied by the experience of a profound religious life, which had been a native growth among the conquered Persians from of old Hence it is hardly possible to overestimate the importance of the part played in the development of Islam by the spiritual movements which came to birth n Iraq and are associated with the School of Basrah and Kufah......... In the second century of the Hegira Islamite jurisprudence enters upon the classic period of its efflorescence and completion. The scene of its glory is the scholarly world of Mesopotamia, which sheds its rays upon every quarter of the Mohamedan Empire. Even such advances in the sphere of law as come to light outside this birth-place of systematised jurisprudence are the fruit of the intellectual movement on the soil of the ancient Empire of Persia. And even the demonstrations of antagonism to the aspirations which took shape there are affected by its influence. Tr.]

* [Punishments inflicted according to the Muslim Law for various crimes and offences are (1) Ḥdd (P. Hudúd) that is, punishment for certain crimes, fixed by the law of Quran, or Traditions ; (2) Tazir, or chastisement for offences, not fixed by the law, but left to the option and discretion of the *Imam* ; (3) *Kisas* or Retaliation.

'*Aqubut* is from Ta'aqub, to follow, because the punishment follows the transgression.

Hád (*Hudúd-allah*) in its primitive sense means prevention, hindrance, impediment, limit, boundary. (The transgressions punished by Hád are (1) adultery, (2) fornication, (3) false accusation of a

sex, and far more humane and refined than the Hebrew Law.

We now come to the last of those institutions which may be compared with those of other nations, *viz.*, Slavery and the legal position of the slaves. Among all the civilised nations of antiquity slavery existed; but with the Semites it stood in close relation to the organisation of the family. The word for slave (male and female) is identical both in Hebrew and Arabic, and this fact alone offers sufficient proof that slavery, as a social institution, existed in those remote times prior to the dispersal of the Semitic nations. The legal obligatory emancipation of every slave in his seventh year is a peculiar Mosaic institution which is found neither in Arab antiquity nor in Islam. Islam improved the lot of the slaves, and encouraged manumission, out of which grew up the system of patron and client. Omar I. did not at all express himself too soon (though the maxim was never fully put into practice),

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married person of adultery, (4) apostacy, (5) drinking wine, (6) theft, (7) highway robbery.) In law it means the punishment appointed by the law of the Qur'an, or the Traditons, for certain crimes and transgressions. The *Hudúd* are the limits, which man is not to transgress, and for the transgression of which he will be punished. No intercession ought to be made and is of no avail when once the case has come before the *Qadi*. Before this time intercession may be made and the punishment cancelled. The guilt, however, remains, and it is only repentance which can remove it. Tr.]

when he said: No Arab can be a slave.* He went further than the Hebrew law-giver, who ordered the manumission only of every Hebrew slave in the jubilee year. In this also Islam, to its credit, departed from the Hebrew law, by ameliorating the lot not only of the Arab slaves but also slaves of non-Arab nationalities. With the Hebrews the heathen slaves continued to remain in their lawless position in spite of the jubilee year. Out of slavery among the Hebrews, too, grew the relation of patron and client; but the rules in their connection were not so precise and carefully defined as among the Arabs where the relation between patron and client offered numerous points of similarity with the Roman institution. But, despite the analogy, it is scarcely possible to hold that anything here was borrowed from the Romans; for slavery among the Semites goes back to an age when world-ruling Rome was not in existence. Slavery is a social institution which has independently developed among peoples of quite different descent; and, because it arose under similar conditions, we notice similar features everywhere.

* [See Prof. Margoliouth's Translation of Zydan's History of Islamic Civilization, pp. 13-20. Tr.]


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